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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

PART 613—EGGS

SUBPART—1949 PRICE SUPPORT PURCHASE PROGRAM

This bulletin describes the 1949 Price Support Purchase Program for Eggs formulated by the Commodity Credit Corporation (hereinafter referred to as CCC) and the Production and Marketing Administration of the U. S. Department of Agriculture. Purchases of dried, frozen, or shell eggs will be made by CCC to support egg prices to producers at levels which will reflect for 1949, a national annual average farm price of 90 percent of parity. Purchases will be made where, when and to the extent necessary to reach this objective. The program is similar to those which were in effect the past three years and will be operated in accordance with the provisions of this bulletin.

Sec.
613.1 Administration.
613.2 Type and availability of program.
613.3 Venders and conditions of eligibility.
613.4 Grading.

AUTHORITY: §§ 613.1 to 613.4 issued pursuant to Pub. Laws 897 and 806, 80th Cong.

§ 613.1 *Administration.* This program shall be carried out by the appropriate branches or Commodity offices of PMA under the general direction and supervision of the Manager of CCC.

§ 613.2 *Type and availability of program.* (a) Prices will be supported through purchases of dried eggs, frozen eggs, and shell eggs made directly by CCC on the basis of offers submitted to it, subject to the terms and conditions of purchase announcements issued by, and copies of which may be obtained from, the Poultry Branch, Production and Marketing Administration, U. S. Department of Agriculture, Washington 25, D. C. Initially, purchases of dried eggs will be made to remove from commercial channels eggs produced in the Midwest region where it is expected the surplus will develop. In the event dried egg purchases are not adequate to maintain the desired price level, frozen eggs will also be purchased.

(b) Purchases of shell eggs will be made initially only in areas not served by driers or egg freezers, if it appears that prices to producers in these areas do not and will not maintain their proper relationship to the national average, thus lowering the U. S. average price to a level below 90 percent of parity. Shell eggs will be purchased in the Midwest only if drying and freezing facilities are not adequate to remove the surplus in that area.

(c) Purchases will be made to the extent required to provide a national annual average price of 90 percent of parity for the calendar year 1949. Purchases may be made at any place in the continental United States, in such quantities and at such times during the period January 1, 1949, to December 31, 1949, as is deemed necessary to accomplish the purpose of the program.

§ 613.3 *Vendors and conditions of eligibility.* Purchases may be made from producers, cooperative organizations, or from dealers (including processing firms). Purchases of dried and frozen eggs will be made from vendors who certify that producers have been paid an average price, on the farm, of not less than that specified by CCC for edible eggs averaging 44 pounds or more per case, for all eggs purchased by the vendor during the term of the contract, for the plant under contract. To be eligible vendors shall further agree to certify that a minimum of 2 cents per dozen above the price specified by CCC has been paid to all producers delivering edible eggs averaging 44 pounds or more, directly to the processing plant. Purchases of shell eggs will be made either from producers, or from other vendors who certify that producers have been paid an average price on the farm, of not less than that specified by CCC for specific grades and weights of eggs, for all eggs purchased by vendor during the term of the contract, for the plant under contract.

§ 613.4 *Grading.* All dried, frozen, and shell eggs purchased shall be graded

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

by authorized graders of the U. S. Department of Agriculture, and the grades shall be evidenced by grading certificates issued by them. Frozen and dried eggs must be produced under the supervision of authorized representatives of the U. S. Department of Agriculture.

Issued this 23d day of June 1949.

[SEAL] HAROLD K. HILL,
Acting Manager,
Commodity Credit Corporation.

Approved:

RALPH S. TRIGG,
President, Commodity Credit Corporation.

[F. R. Doc. 49-5140; Filed, June 27, 1949; 8:56 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION CERTIFICATION, AND STANDARDS)

SUBPART B—U. S. STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS [1]

U. S. STANDARDS FOR GRADES OF CANNED GRAPEFRUIT JUICE [2]

On July 22, 1948 a notice of rule making was published in the FEDERAL REGISTER (13 F. R. 4192) regarding a proposed revision of the United States Standards for Grades of Canned Grapefruit Juice (7 CFR 52.365). After consideration of all relevant matters, the following revised United States Standards for Grades of Canned Grapefruit Juice are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1949 (Pub. Law 712, 80th Cong., approved June 19, 1948):

§ 52.365 *Canned grapefruit juice.* Canned grapefruit juice is the undiluted, unconcentrated, unfermented juice obtained from mature fresh fruit of the grapefruit tree (Citrus paradisi) which fruit has been properly washed; is packed with or without the addition of sweetening ingredients; is sufficiently processed by heat to assure preservation of the product; and is packed in containers which are hermetically sealed.

(a) *Grades of canned grapefruit juice.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned grapefruit juice that shows no coagulation; that possesses a very good color; is practically free from defects; possesses a very good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this section.

(2) "U. S. Grade C" or "U. S. Standard" is the quality of canned grapefruit juice that may show slight coagulation; that possesses a good color; is fairly free from defects; that possesses a good flavor; and scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of canned grapefruit juice that fails to meet the requirements of U. S. Grade C or U. S. Standard.

(b) *Recommended fill of container.* The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be filled as full as practicable with grapefruit juice and that the product occupy not less than 90 percent of the total capacity of the container.

(c) *Ascertaining the grade.* The grade of canned grapefruit juice may be ascertained by considering, in addition to the foregoing requirements of the respective grade, the respective ratings for the factors of color, absence of defects, and flavor. The relative importance of each factor has been expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors:	Points
(1) Color	20
(2) Absence of defects	40
(3) Flavor	40
Total score	100

(d) *Ascertaining the rating of each factor.* The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "17 to 20 points" means 17, 18, 19, or 20 points).

(1) *Color.* (i) Canned grapefruit juice that possesses a very good color may be given a score of 17 to 20 points. "Very good color" means (*a*) in the case of canned grapefruit juice prepared from white-fleshed grapefruit that the color is bright and typical of juice freshly extracted from white-fleshed grapefruit and is free from browning due to scorching, oxidation, caramelization, or other causes; and (*b*) in the case of canned grapefruit juice prepared from pink-fleshed grapefruit, that the color is bright and typical of juice freshly extracted from fairly deep-pink-fleshed grapefruit, is free from browning due to scorching, oxidation, caramelization, or other causes, and is so distinctive in color as to distinguish it clearly from canned grapefruit juice prepared from a mixture of white-fleshed grapefruit and pink-fleshed grapefruit or from light colored pink-fleshed grapefruit the juice of which is so light in color that it cannot be distinguished from such a mixture.

(ii) If the canned grapefruit juice possesses a good color, a score of 14 to 16 points may be given. Canned grapefruit juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good color" means (*a*) in the case of canned grapefruit juice prepared from white-fleshed grapefruit, that the color is fairly typical of juice extracted from white-fleshed grapefruit and may be dull or show evidence of slight browning, but is not off color; and (*b*) in the case of canned grapefruit juice prepared from pink-fleshed grapefruit and mixtures of white-fleshed grapefruit and pink-fleshed grapefruit that the color is fairly typical of juice extracted from pink-fleshed grapefruit or mixtures of white-fleshed grapefruit and pink-fleshed grapefruit and may be dull or show evidence of slight browning, but is not off color.

(iii) Canned grapefruit juice that for any reason fails to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 13 points, and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from free and suspended pulp, recoverable oil, seeds and seed particles, or other defects.

(i) "Free and suspended pulp" means particles of membrane, core, skin, and other similar extraneous material in canned grapefruit juice.

(ii) Canned grapefruit juice that is practically free from defects may be given a score of 34 to 40 points. "Practically free from defects" means that the juice may contain not more than 10 percent free and suspended pulp and that there may be present not more than 0.015 percent by volume of recoverable oil; and does not contain seeds or seed particles or other defects that more than slightly affect the appearance of the product.

(iii) If the canned grapefruit juice is fairly free from defects, a score of 28 to 33 points may be given. Canned grapefruit juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that the juice may contain not more than 15 percent free and suspended pulp and that there may be present not more than 0.020 percent by volume of recoverable oil; and does not contain seeds or seed particles or other defects that materially affect the appearance of the product.

(iv) If the canned grapefruit juice fails to meet the requirements of subdivision (iii) of this subparagraph, a score of 0 to 27 points may be given. Canned grapefruit juice that falls into this classification shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(3) *Flavor.* (i) Canned grapefruit juice that possesses a very good flavor may be given a score of 34 to 40 points. "Very good flavor" means a fine, distinct canned grapefruit juice flavor which is free from off flavors of any kind and meets the following requirements:

Brix—Not less than 9.5 degrees.

Acid—Not less than 0.90 gram nor more than 2.0 grams (calculated as anhydrous citric acid) per 100 ml. of juice.

Brix-acid ratio—Not less than 7 to 1 nor more than 14 to 1.

(*a*) Canned grapefruit juice is considered "sweet" if the juice possesses a very good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.

Acid—Not less than 1.0 gram nor more than 2.0 grams (calculated as anhydrous citric acid) per 100 ml. of juice.

Brix-acid ratio—Not less than 9 to 1 nor more than 14 to 1, provided that when the Brix is 16 degrees or more, the Brix-acid ratio may be less than 9 to 1.

(ii) If the canned grapefruit juice possesses a good flavor, a score of 28 to 33 points may be given. Canned grapefruit juice that falls into the classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good flavor" means a good, normal canned grapefruit juice flavor which is free from off flavors of

[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] The requirements of these standards shall not excuse failure to comply with applicable state laws and regulations.

any kind and meets the following requirements:

Brix—Not less than 9.0 degrees.
Acid—Not less than 0.75 gram (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 6.5 to 1.

(a) Canned grapefruit juice is considered "sweet" if the juice possesses a good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.
Acid—Not less than 0.85 gram (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 9 to 1, provided that when the Brix of the juice is 16 degrees or more, the Brix-acid ratio may be less than 9 to 1.

(iii) Canned grapefruit juice that fails to meet the requirements of subdivision (ii) of this subparagraph, or is off flavor or unpalatable for any reason, may be given a score of 0 to 27 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(e) *Definitions of terms as used in the standards.* (1) "Brix" means the degrees Brix of canned grapefruit juice when tested with a Brix hydrometer calibrated at 20 degrees C. (68 degrees F.). If used in testing juice at a temperature other than 20 degrees C. (68 degrees F.) the applicable temperature correction shall be made to the reading of the scale as prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists." The degrees Brix of canned grapefruit juice may be determined by any other method which gives equivalent results.

(2) "Acid" means grams of acid (calculated as anhydrous citric acid) per 100 ml. of juice in canned grapefruit juice determined by titration with standard sodium hydroxide solution using phenolphthalein indicator.

(f) *Explanation of analyses.* (1) Free and suspended pulp is determined by the following method:

Graduated centrifuge tubes with a capacity of 50 ml. are filled with juice and placed in a suitable centrifuge. The speed is adjusted, according to diameter, as indicated in Table No. I, and the juice is centrifuged for exactly 10 minutes. As used in this section, "diameter" means the over-all distance between the bottoms of opposing centrifuge tubes in operating position. After centrifuging, the milliliter reading at the top of the layer of pulp in the tube is multiplied by 2 to give the percentage of pulp.

TABLE NO. I

Diameter	Approximate revolutions per minute	Diameter	Approximate revolutions per minute
10 inches	1,609	15½ inches	1,292
10½ inches	1,570	16 inches	1,271
11 inches	1,534	16½ inches	1,252
11½ inches	1,500	17 inches	1,234
12 inches	1,468	17½ inches	1,216
12½ inches	1,438	18 inches	1,199
13 inches	1,410	18½ inches	1,182
13½ inches	1,384	19 inches	1,167
14 inches	1,359	19½ inches	1,152
14½ inches	1,336	20 inches	1,137
15 inches	1,313		

(2) Recoverable oil is determined by the following method:

Equipment. Oil separatory trap similar to either of those illustrated in Figure 1 and Figure 2.[1]

Gas burner or hot plate.
Ringstand and clamps.
Rubber tubing.
3-liter narrow-neck flask.

Procedure. Exactly 2 liters of juice are placed in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from bottom to top, and bring the juice to a boil. Boiling is continued for one hour at the rate of approximately 50 drops per minute. By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered.

The number of milliliters of oil recovered divided by 20 equals the percent by volume of recoverable oil.

(g) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned grapefruit juice, the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores, and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, is within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(h) *Score sheet for canned grapefruit juice.*

Size and kind of container		
Container mark or identification		
Label		
Liquid measure (fl. ounces)		
Vacuum (in inches)		
Brix (degrees)		
Acid (anhydrous citric: grams/100 ml.)		
Brix-acid ratio		
Pulp (free and suspended) percent		
Recoverable oil (percent by volume)		

Factors	Score points	
I. Color	20	(A) 17-20 (C)[1] 14-16 (D)[1] 0-13
II. Absence of Defects	40	(A) 34-40 (C)[1] 28-33 (D)[1] 0-27
III. Flavor	40	(A) 34-40 (C)[1] 28-33 (D)[1] 0-27
Total score	100	
Grade		

[1] Indicates limiting rule.

[1] Filed as part of the original document.

(i) *Effective time and supersedure.* The revised United States Standards for grades of canned grapefruit juice (which are the sixth issue) contained in this section shall become effective thirty days after the date of publication of these standards in the FEDERAL REGISTER. (60 Stat. 1087; 7 U. S. C. 1621 et seq.; Pub. Law 712, 80th Cong., approved June 19, 1948)

Issued at Washington, D. C., this 22d day of June 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-5122; Filed, June 27, 1949; 8:47 a. m.]

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART B—U. S. STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS[1]

U. S. STANDARDS FOR GRADES OF CANNED BLENDED GRAPEFRUIT JUICE AND ORANGE JUICE[2]

On July 21, 1948 a notice of proposed rule making was published in the FEDERAL REGISTER (13 F. R. 4151) regarding a proposed revision of the United States Standards for Grades of Canned Blended Grapefruit Juice and Orange Juice. After consideration of all relevant matters, the following revised United States Standards for Grades of Canned Blended Grapefruit Juice and Orange Juice are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1949 (Pub. Law 712, 80th Cong., Approved June 19, 1948):

§ 52.374 *Canned blended grapefruit juice and orange juice.* Canned blended grapefruit juice and orange juice is the product prepared from a combination of undiluted, unconcentrated, unfermented juices obtained from the mature fresh fruit of the grapefruit tree (Citrus paradisi) and the sweet orange group (Citrus sinensis) and Mandarin group (Citrus reticulata), except tangerines, which fruit has been properly washed; is packed with or without the addition of sweetening ingredients; is sufficiently processed by heat to assure preservation of the product; and is packed in containers which are hermetically sealed. It is recommended that canned blended grapefruit juice and orange juice be composed of not less than 50 percent orange juice; however, in oranges yielding light-colored juice it is further recommended that as much as 75 percent orange juice be used.

(a) *Grades of canned blended grapefruit juice and orange juice.* (1) "U. S.

[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] The requirements of these standards shall not excuse failure to comply with applicable state laws and regulations.

Grade A" or "U. S. Fancy" is the quality of canned blended grapefruit juice and orange juice that shows no coagulation; possesses a very good color; is practically free from defects; possesses a very good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this section.

(2) "U. S. Grade C" or "U. S. Standard" is the quality of canned blended grapefruit juice and orange juice that may show slight coagulation; possesses a good color; is fairly free from defects; possesses a good flavor; and scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of canned blended grapefruit juice and orange juice that fails to meet the requirements of U. S. Grade C or U. S. Standard.

(b) *Recommended fill of container.* The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be filled as full as practicable with blended grapefruit juice and orange juice and that the product occupy not less than 90 percent of the total capacity of the container.

(c) *Ascertaining the grade.* The grade of canned blended grapefruit juice and orange juice may be ascertained by considering, in addition to the foregoing requirements of the respective grade, the respective ratings for the factors of color, absence of defects, and flavor. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors:	Points
(1) Color	20
(2) Absence of defects	40
(3) Flavor	40
Total score	100

(d) *Ascertaining the rating of each factor.* The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "17 to 20 points" means 17, 18, 19, or 20 points).

(1) *Color.* (i) Canned blended grapefruit juice and orange juice that possesses a very good color may be given a score of 17 to 20 points. "Very good color" means that the blended juice possesses a light yellow-orange color that is bright and typical of freshly extracted juice and is free from browning due to scorching, oxidation, caramelization, or other causes.

(ii) If the canned blended grapefruit juice and orange juice possesses a good color, a score of 14 to 16 points may be given. Canned blended juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good color" means that the blended juice possesses a fairly typical color that may range from light yellow to light amber, may be dull or show evidence of slight browning, but is not off color.

(iii) Canned blended grapefruit juice and orange juice that for any reason fails to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from free and suspended pulp, recoverable oil, seeds and seed particles, or other defects.

(i) "Free and suspended pulp" means particles of membrane, core, skin, and other similar extraneous material in the canned blended juice.

(ii) Canned blended grapefruit juice and orange juice that is practically free from defects may be given a score of 34 to 40 points. "Practically free from defects" means that the juice may contain not more than 12 percent free and suspended pulp and that there may be present not more than 0.030 percent by volume of recoverable oil; and does not contain seeds or seed particles or other defects that more than slightly affect the appearance of the product.

(iii) If the canned blended grapefruit juice and orange juice is fairly free from defects, a score of 28 to 33 points may be given. Canned blended juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that the juice may contain not more than 18 percent free and suspended pulp and that there may be present not more than 0.050 percent by volume of recoverable oil; and does not contain seeds or seed particles or other defects that materially affect the appearance of the product.

(iv) If the canned blended grapefruit juice and orange juice fails to meet the requirements of subdivision (iii) of this subparagraph, a score of 0 to 27 points may be given. Canned blended juice that falls into this classification shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(3) *Flavor.* (i) Canned blended grapefruit juice and orange juice that possesses a very good flavor may be given a score of 34 to 40 points. "Very good flavor" means a fine, distinct canned blended grapefruit juice and orange juice flavor which is free from off flavors of any kind and meets the following requirements:

Brix—Not less than 10.0 degrees.
Acid—Not less than 0.80 gram nor more than 1.70 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 8 to 1 nor more than 17 to 1.

(*a*) Canned blended grapefruit juice and orange juice is considered "sweet" if the juice possesses a very good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.
Acid—Not less than 0.80 gram nor more than 1.70 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 10 to 1 nor more than 17 to 1, provided, that when the Brix of the juice is 16 degrees or more, the Brix-acid ratio may be less than 10 to 1.

(ii) If the canned blended grapefruit juice and orange juice possesses a good flavor, a score of 28 to 33 points may be given. Canned blended juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good flavor" means a good, normal canned blended grapefruit juice and orange juice flavor which is free from off flavors of any kind and meets the following requirements:

Brix—Not less than 9.5 degrees.
Acid—Not less than 0.65 gram nor more than 1.80 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 7.5 to 1.

(*a*) Canned blended grapefruit juice and orange juice is considered "sweet" if the juice possesses a good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.
Acid—Not less than 0.65 gram nor more than 1.80 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 10 to 1, provided, that when the Brix of the juice is 16 degrees or more, the Brix-acid ratio may be less than 10 to 1.

(iii) Canned blended grapefruit juice and orange juice that fails to meet the requirements of subdivision (ii) of this subparagraph, is off flavor, or is unpalatable for any reason may be given a score of 0 to 27 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(e) *Definitions of terms.* (1) "Brix" means the degrees Brix of canned blended grapefruit juice and orange juice when tested with a Brix hydrometer calibrated at 20 degrees C. (63 degrees F.). If used in testing juice at a temperature other than 20 degrees C. (68 degrees F.) the applicable temperature correction shall be made to the reading of the scale as prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists." The degrees Brix of canned blended juice may be determined by any other method which gives equivalent results.

(2) "Acid" means grams of acid (calculated as anhydrous citric acid) per 100 ml. of juice in canned blended grapefruit juice and orange juice determined by titration with standard sodium hydroxide solution using phenolphthalein indicator.

(f) *Explanation of analyses.* (1) Free and suspended pulp is determined by the following method:

Graduated centrifuge tubes with a capacity of 50 ml. are filled with juice and placed in a suitable centrifuge. The speed is adjusted, according to diameter, as indicated in Table No. I, and the juice is centrifuged for exactly 10 minutes. As used in this section, "diameter" means the over-all distance between the bottoms of opposing centrifuge tubes in operating position. After centrifuging, the

milliliter reading at the top of the layer of pulp in the tube is multiplied by 2 to give the percentage of pulp.

TABLE NO. I

Diameter	Approximate revolutions per minute	Diameter	Approximate revolutions per minute
10 inches	1,609	15½ inches	1,292
10½ inches	1,570	16 inches	1,271
11 inches	1,534	16½ inches	1,252
11½ inches	1,500	17 inches	1,234
12 inches	1,468	17½ inches	1,216
12½ inches	1,438	18 inches	1,199
13 inches	1,410	18½ inches	1,182
13½ inches	1,384	19 inches	1,167
14 inches	1,359	19½ inches	1,152
14½ inches	1,336	20 inches	1,137
15 inches	1,313		

(2) Recoverable oil in canned blended grapefruit juice and orange juice is determined by the following method:

(i) *Equipment.* Oil separatory trap similar to either of those illustrated in Figure 1 and Figure 2.[1]

Gas burner or hot plate.
Ringstand and clamps.
Rubber tubing.
3-liter narrow-neck flask.

(ii) *Procedure.* Exactly 2 liters of juice are placed in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from bottom to top, and bring the juice to a boil. Boiling is continued for one hour at the rate of approximately 50 drops per minute. By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered.

The number of milliliters of oil recovered divided by 20 equals the percent by volume of recoverable oil.

(g) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned blended grapefruit juice and orange juice, the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores, and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, is within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

[1] Filed as part of the original document.

(h) *Score sheet for canned blended grapefruit juice and orange juice.*

Size and kind of container			
Container mark or identification			
Label			
Liquid measure (fl. ounces)			
Vacuum (in inches)			
Brix (degrees)			
Acid (anhydrous citric: grams/100 ml.)			
Brix-acid ratio			
Pulp (free and suspended) percent			
Recoverable oil (percent by volume)			
Factors	**Score points**		
I. Color	20	(A) 17-20 (C)[1] 14-16 (D)[1] 0-13	
II. Absence of defects	40	(A) 34-40 (C)[1] 28-33 (D)[1] 0-27	
III. Flavor	40	(A) 34-40 (C)[1] 28-33 (D)[1] 0-27	
Total score	100		
Grade			

[1] Indicates limiting rule.

(i) *Effective time and supersedure.* The revised United States Standards for Grades of Canned Blended Grapefruit Juice and Orange Juice (which are the fourth issue) contained in this section will become effective thirty days after the date of publication of these standards in the FEDERAL REGISTER. (60 Stat. 1087; 7 U. S. C. 1621 et seq.; Pub. Law 712, 80th Cong., approved June 19, 1948)

Issued at Washington, D. C., this 22d day of June 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-5123; Filed, June 27, 1949; 8:47 a. m.]

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART B—U. S. STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS [1]

U. S. STANDARDS FOR GRADES OF CANNED ORANGE JUICE [2]

On July 21, 1948, a notice of proposed rule making was published in the FEDERAL REGISTER (13 F. R. 4154) regarding a proposed revision of the United States Standards for Grades of Canned Orange Juice (7 CFR 52.488). After consideration of all relevant matters, the following revised United States Standards for Grades of Canned Orange Juice are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1949 (Pub. Law 712, 80th Cong., approved June 19, 1948):

[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] The requirements of these standards shall not excuse failure to comply with applicable state laws and regulations.

§ 52.488 *Canned orange juice.* Canned orange juice is the undiluted, unconcentrated, unfermented juice obtained from mature fresh fruit of the sweet orange group (Citrus sinensis) and Mandarin group (Citrus reticulata), except tangerines, which fruit has been properly washed; is packed with or without the addition of sweetening ingredients; is sufficiently processed by heat to assure preservation of the product; and is packed in containers which are hermetically sealed.

(a) *Grades of canned orange juice.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned orange juice that shows no coagulation; that possesses a very good color; is practically free from defects; possesses a very good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this section.

(2) "U. S. Grade C" or "U. S. Standard" is the quality of canned orange juice that may show slight coagulation; that possesses a good color; is fairly free from defects; possesses a good flavor; and scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of canned orange juice that fails to meet the requirements of U. S. Grade C or U. S. Standard.

(b) *Recommended fill of container.* The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be filled as full as practicable with orange juice and that the product occupy not less than 90 percent of the total capacity of the container.

(c) *Ascertaining the grade.* The grade of canned orange juice may be ascertained by considering, in addition to the foregoing requirements of the respective grade, the respective ratings for the factors of color, absence of defects, and flavor. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors:	Points
(1) Color	20
(2) Absence of defects	40
(3) Flavor	40
Total score	100

(d) *Ascertaining the rating of each factor.* The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "17 to 20 points" means 17, 18, 19, or 20 points).

(1) *Color.* (i) Canned orange juice that possesses a very good color may be given a score of 17 to 20 points. "Very good color" means that the orange juice possesses a bright yellow to yellow-orange color typical of freshly extracted juice and is free from browning due to scorching, oxidation, caramelization, or other causes.

(ii) If the canned orange juice possesses a good color, a score of 14 to 16 points may be given. Canned orange juice that falls into this classification shall not be graded above the U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good color" means that the orange juice may be slightly amber or very light in color but is typical of canned orange juice and may show evidence of slight browning, but is not off-color.

(iii) Canned orange juice that for any reason fails to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from recoverable oil; from particles of membrane, core, or skin; from seeds or seed particles; or from other defects.

(i) Canned orange juice that is practically free from defects may be given a score of 34 to 40 points. "Practically free from defects" means that there may be present not more than 0.030 percent by volume of recoverable oil and that the juice does not contain particles of membrane, core, or skin, seeds or seed particles, or other defects that more than slightly affect the appearance of the product.

(ii) If the canned orange juice is fairly free from defects, a score of 28 to 33 points may be given. Canned orange juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that there may be present not more than 0.050 percent by volume of recoverable oil and that the juice does not contain particles of membrane, core, or skin, seed or seed particles, or other defects that materially affect the appearance of the product.

(iii) If the canned orange juice fails to meet the requirements of subdivision (ii) of this subparagraph, a score of 0 to 27 points may be given. Canned orange juice that falls into this classification shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(3) *Flavor.* (i) Canned orange juice that possesses a very good flavor may be given a score of 34 to 40 points. "Very good flavor" means a fine, distinct canned orange juice flavor which is free from traces of scorching, caramelization, oxidation, or terpene; is free from off flavors of any kind; and meets the following requirements:

Brix—Not less than 10.5 degrees.
Acid—Not less than 0.75 gram nor more than 1.45 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 9 to 1 nor more than 18 to 1.

(*a*) Canned orange juice is considered "sweet" if the juice possesses a very good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.
Acid—Not less than 0.75 gram nor more than 1.45 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 11 to 1 nor more than 18 to 1, provided that when the Brix of the juice is 16 degrees or more, the Brix-acid ratio may be less than 11 to 1.

(ii) If the canned orange juice possesses a good flavor, a score of 28 to 33 points may be given. Canned orange juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good flavor" means a good, normal canned orange juice flavor which may have a slightly caramelized or slightly oxidized flavor but is free from off flavors of any kind and meets the following requirements:

Brix—Not less than 10.0 degrees.
Acid—Not less than 0.55 gram nor more than 1.60 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 8.5 to 1.

(a) Canned orange juice is considered "sweet" if the juice possesses a good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.
Acid—Not less than 0.65 gram nor more than 1.65 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 11 to 1, provided that when the Brix of the juice is 16 degrees or more, the Brix-acid ratio may be less than 11 to 1.

(iii) Canned orange juice that fails to meet the requirements of subdivision (ii) of this subparagraph, is off flavor, or is unpalatable for any reason may be given a score of 0 to 27 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(c) *Definitions of terms.* (1) "Brix" means the degrees Brix of canned orange juice when tested with a Brix hydrometer calibrated at 20 degrees C. (68 degrees F.). If used in testing juice at a temperature other than 20 degrees C. (68 degrees F.) the applicable temperature correction shall be made to the reading of the scale as prescribed in "Official and Tentative Methods of Anaylsis of the Association of Official Agricultural Chemists." The degrees Brix of canned orange juice may be determined by any other method which gives equivalent results.

(2) "Acid" means grams of acid (calculated as anhydrous citric acid) per 100 ml. of juice in canned orange juice determined by titration with standard sodium hydroxide solution using phenolyphthalein indicator.

(f) *Explanation of analyses.* (1) Recoverable oil is determined by the following method:

(i) *Equipment.* Oil separatory trap similar to either of those illustrated in Figure 1 and Figure 2.[1]

Gas burner or hot plate.
Ringstand and clamps.
Rubber tubing.
3-liter narrow-neck flask.

[1] Filed as part of the original document.

(ii) *Procedure.* Exactly 2 liters of juice are placed in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from bottom to top, and bring the juice to a boil. Boiling is continued for one hour at the rate of approximately 50 drops per minute. By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered.

The number of milliliters of oil recovered divided by 20 equals the percent by volume of recoverable oil.

(g) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned orange juice, the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores, and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, is within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(h) *Score sheet for canned orange juice.*

Size and kind of container	
Container mark or identification	
Label	
Liquid measure (fl. ounces)	
Vacuum (in inches)	
Brix (degrees)	
Acid (anhydrous citric: grams/100 ml.)	
Brix-acid ratio	
Recoverable oil (percent by volume)	

Factors	Score points		
I. Color	20	(A)	17-20
		(C)[1]	14-16
		(D)[1]	0-13
II. Absence of Defects	40	(A)	34-40
		(C)[1]	28-33
		(D)[1]	0-27
III. Flavor	40	(A)	34-40
		(C)[1]	28-33
		(D)[1]	0-27
Total	100		

Grade	

[1] Indicates limiting rule.

(i) *Effective time and supersedure.* The revised United States Standards for grades of canned orange juice (which are the fifth issue) contained in this section will become effective thirty days after the date of publication of these standards in the FEDERAL REGISTER. (60 Stat. 1087;

7 U. S. C. 1621 et seq.; Pub. Law 712, 80th Cong., approved June 19, 1948)

Issued at Washington, D. C. this 22d day of June 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-5124; Filed, June 27, 1949; 8:47 a. m.]

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART B—U. S. STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS [1]

U. S. STANDARDS FOR GRADES OF CANNED TANGERINE JUICE [2]

On July 22, 1948, a notice of proposed rule making was published in the FEDERAL REGISTER (13 F. R. 4196) regarding a proposed revision of the United States Standards for Grades of Canned Tangerine Juice (7 CFR 52.667). After consideration of all relevant matters, the following revised United States Standards for Grades of Canned Tangerine Juice are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1949 (Pub. Law 712, 80th Cong., approved June 19, 1948):

§ 52.667 *Canned tangerine juice.* Canned tangerine juice is the undiluted, unconcentrated, unfermented juice obtained from mature fresh fruit of the Mandarin orange (Citrus reticulata) which fruit has been properly washed; is packed with or without the addition of sweetening ingredients; is sufficiently processed by heat to assure preservation of the product; and is packed in containers which are hermetically sealed.

(a) *Grades of canned tangerine juice.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned tangerine juice that shows no coagulation; that possesses a very good color; is practically free from defects; possesses a very good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this section.

(2) "U. S. Grade C" or "U. S. Standard" is the quality of canned tangerine juice that may show slight coagulation; that possesses a good color; is fairly free from defects; possesses a good flavor; and scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of canned tangerine juice that fails to meet the requirements of U. S. Grade C or U. S. Standard.

(b) *Recommended fill of container.* The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be filled as full as practicable with tangerine juice and that the product occupy not less than 90 percent of the total capacity of the container.

(c) *Ascertaining the grade.* The grade of canned tangerine juice may be ascertained by considering in addition to the foregoing requirements of the respective grade, the respective ratings for the factors of color, absence of defects, and flavor. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors:	Points
(1) Color	20
(2) Absence of defects	40
(3) Flavor	40
Total score	100

(d) *Ascertaining the rating of each factor.* The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "17 to 20 points" means 17, 18, 19, or 20 points.

(1) *Color.* (i) Canned tangerine juice that possesses a very good color may be given a score of 17 to 20 points. "Very good color" means that the tangerine juice possesses a bright yellow to yellow-orange color typical of freshly extracted juice and is free from browning due to scorching, oxidation, caramelization, or other causes.

(ii) If the canned tangerine juice possesses a good color, a score of 14 to 16 points may be given. Canned tangerine juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good color" means that the tangerine juice possesses a typical yellow to yellow-orange color that may be slightly amber or show evidence of slight browning, but is not off-color.

(iii) Canned tangerine juice that for any reason fails to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from free and suspended pulp, recoverable oil, seeds or seed particles, or other defects.

(i) "Free and suspended pulp" means particles of membrane, core, skin, and other similar extraneous material in canned tangerine juice.

(ii) Canned tangerine juice that is practically free from defects may be given a score of 34 to 40 points. "Practically free from defects" means that the juice may contain not more than 7 percent free and suspended pulp and that there may be present not more than 0.020 percent by volume of recoverable oil; and does not contain seeds or seed particles or other defects that more than slightly affect the appearance of the product.

(iii) If the canned tangerine juice is fairly free from defects, a score of 28 to 33 points may be given. Canned tangerine juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that the juice may contain not more than 10 percent free and suspended pulp and that there may be present not more than 0.030 percent by volume of recoverable oil; and does not contain seeds or seed particles or other defects that materially affect the appearance of the product.

(iv) If the canned tangerine juice fails to meet the requirements of subdivision (iii) of this subparagraph, a score of 0 to 27 points may be given. Canned tangerine juice that falls into this classification shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(3) *Flavor.* (i) Canned tangerine juice that possesses a very good flavor may be given a score of 34 to 40 points. "Very good flavor" means a fine, distinct canned tangerine juice flavor which is free from traces of scorching, caramelization, oxidation, or terpene; is free from off flavors of any kind; and meets the following requirements:

Brix—Not less than 10.5 degrees.
Acid—Not less than 0.70 gram nor more than 1.40 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 10 to 1 nor more than 18 to 1.

(*a*) Canned tangerine juice is considered "sweet" if the juice possesses a very good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.
Acid—Not less than 0.70 gram nor more than 1.40 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 11 to 1 nor more than 18 to 1, provided that when the Brix is 16 degrees or more, the Brix-acid ratio may be less than 11 to 1.

(ii) If the canned tangerine juice possesses a good flavor, a score of 28 to 33 points may be given. Canned tangerine juice that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Good flavor" means a good, normal canned tangerine juice flavor which may have a slightly caramelized or slightly oxidized flavor but is free from off flavors of any kind and meets the following requirements:

Brix—Not less than 10.0 degrees.
Acid—Not less than 0.55 gram nor more than 1.60 grams (calculated as anhydrous citric acid) per 100 ml. of juice.
Brix-acid ratio—Not less than 9 to 1.

(*a*) Canned tangerine juice is considered "sweet" if the juice possesses a good flavor and falls within the range of the following requirements:

Brix—Not less than 12.5 degrees.

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[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetics Act.

[2] The requirements of these standards shall not excuse failure to comply with applicable state laws and regulations.

Acid—Not less than 0.65 gram nor more than 1.60 grams (calculated as anhydrous citric acid) per 100 ml. of juice.

Brix-acid ratio—Not less than 11 to 1, provided that when the Brix of the juice is 16 degrees or more the Brix-acid ratio may be less than 11 to 1.

(iii) Canned tangerine juice that fails to meet the requirements of subdivision (ii) of this subparagraph, is off flavor, or is unpalatable for any reason may be given a score of 0 to 27 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(e) *Definitions of terms.* (1) "Brix" means the degrees Brix of canned tangerine juice when tested with a Brix hydrometer calibrated at 20 degrees C. (68 degrees F.). If used in testing juice at a temperature other than 20 degrees C. (68 degrees F.) the applicable temperature correction shall be made to the reading of the scale as prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists." The degrees Brix of canned tangerine juice may be determined by any other method which gives equivalent results.

(2) "Acid" means grams of acid (calculated as anhydrous citric acid) per 100 ml. of juice in canned tangerine juice determined by titration with standard sodium hydroxide solution using phenolphthalein indicator.

(f) *Explanation of analyses.* (1) Free and suspended pulp is determined by the following method:

(i) Graduated centrifuge tubes with a capacity of 50 ml. are filled with canned tangerine juice and placed in a suitable centrifuge. The speed is adjusted according to diameter, as indicated in Table No. I, and the juice is centrifuged for exactly 10 minutes. As used in this section, "diameter" means the over-all distance between the bottoms of opposing centrifuge tubes in operating position. After centrifuging, the milliliter reading at the top of the layer of pulp in the tube is multiplied by 2 to give the percentage of pulp.

TABLE NO. I

Diameter	Approximate revolutions per minute	Diameter	Approximate revolutions per minute
10 inches	1,609	15½ inches	1,292
10½ inches	1,570	16 inches	1,271
11 inches	1,534	16½ inches	1,252
11½ inches	1,500	17 inches	1,234
12 inches	1,468	17½ inches	1,216
12½ inches	1,438	18 inches	1,199
13 inches	1,410	18½ inches	1,182
13½ inches	1,384	19 inches	1,167
14 inches	1,359	19½ inches	1,152
14½ inches	1,336	20 inches	1,137
15 inches	1,313		

(2) Recoverable oil is determined by the following method:

(i) *Equipment.* Oil separatory trap similar to either of those illustrated in Figure 1 and Figure 2.[1]

[1] Filed as part of the original document.

Gas burner or hot plate.
Ringstand and clamps.
Rubber tubing.
3-liter narrow-neck flask.

(ii) *Procedure.* Exactly 2 liters of juice are placed in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from bottom to top, and bring the juice to a boil. Boiling is continued for one hour at the rate of approximately 50 drops per minute. By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered.

The number of milliliters of oil recovered divided by 20 equals the percent by volume of recoverable oil.

(g) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned tangerine juice, the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores, and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, is within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(h) *Score sheet for canned tangerine juice.*

Size and kind of container			------
Container mark or identification			------
Label			------
Liquid measure (fl. ounces)			------
Vacuum (in inches)			------
Brix (degrees)			------
Acid (anhydrous citric: grams/100 ml.)			------
Brix-acid ratio			------
Pulp (free and suspended: percent)			------
Recoverable oil (percent by volume)			------
Factors	Score points		
I. Color	20	(A) 17-20 (C)[1] 14-16 (D)[1] 0-13	
II. Absence of Defects	40	(A) 34-40 (C)[1] 28-33 (D)[1] 0-27	
III. Flavor	40	(A) 34-40 (C)[1] 28-33 (D)[1] 0-27	
Total score	100		
Grade	----	----------	------

[1] Indicates limiting rule.

(i) *Effective time and supersedure.* The revised United States Standards for grades of canned tangerine juice (which are the second issue) contained in this section shall become effective thirty days after the date of publication of these standards in the FEDERAL REGISTER. (60 Stat. 1087; 7 U. S. C. 1621 et seq.; Pub. Law 712, 80th Cong., approved June 19, 1948)

Issued at Washington, D. C., this 22d day of June 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-5121; Filed, June 27, 1949; 8:47 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Plum Order 2, Amdt. 1]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATION BY GRADE AND SIZES

Correction

In Federal Register document 49-4847, which appeared on page 3260 of the issue of June 16, 1949, paragraph (2) under *"Findings"* should read as follows:

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rule making procedure (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient; and this amendment relieves restrictions on the handling of Santa Rosa plums grown in the State of California.

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter B—Immigration Regulations

PART 110—PRIMARY INSPECTION AND DETENTION

CHANGE IN DESIGNATION OF CERTAIN AIRPORTS OF ENTRY FOR ALIENS

JUNE 21, 1949.

Section 110.3 *Airports of entry,* Chapter I, Title 8 of the Code of Federal Regulations, is hereby amended by deleting the following names of locations and airports from the list of temporary airports of entry for aliens in paragraph (b) and by including such names, in alphabetical

order, in the list of permanent airports of entry for aliens in paragraph (a):

Oroville, Wash., Dorothy Scott Municipal Airport.

Oroville, Wash., Dorothy Scott Seaplane Base.

This change in designation shall become effective upon publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary because the change in designation from temporary to permanent airports of entry for aliens relates to a matter of agency management which has no effect on the type of service rendered to the public by the Immigration and Naturalization Service.

(Sec. 7 (d), 44 Stat. 572; 49 U. S. C. 177 (d))

TOM C. CLARK,
Attorney General.

Recommended: June 14, 1949.

WATSON B. MILLER,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 49-5115; Filed, June 27, 1949; 8:46 a. m.]

TITLE 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—FACILITIES FOR THE PRODUCTION OF FISSIONABLE MATERIAL

MISCELLANEOUS AMENDMENTS

Title 10, Chapter I, Part 50, Code of Federal Regulations, entitled "Control of Facilities for the Production of Fissionable Material" is hereby amended in the following respects, effective July 1, 1949:

1. The third (last) sentence of § 50.20 *Applications for licenses* is deleted.

2. The second (last) sentence of § 50.21 *Issuance of licenses,* is deleted.

3. The following § 50.72 is added reading as follows:

§ 50.72 *Schedule B: Exemptions.* The listing in § 50.71 of electrometer-type electronic tubes and resistors (see § 50.71 (a) (14) and (15) and § 50.71 (b) (7) and (8)) shall not be deemed to constitute such items component parts of radiation detection equipment or mass spectrometers when they have been actually incorporated into (or packaged as spares for shipment with) instruments (such as, but not limited to, pH meters, spectrophotometers, moisture meters, and kilovoltmeters) not capable of detection or measurement of nuclear radiation or not capable of use as mass spectrometers.

(60 Stat. 755-775; 42 U. S. C. 1801-1819. Interpret or apply sec. 4 (e), 60 Stat. 759; 42 U. S. C. 1804 (e))

Dated at Washington, D. C., this 24th day of June 1949.

By order of the Commission.

CARROLL L. WILSON,
General Manager.

[F. R. Doc. 49-5145; Filed, June 27, 1949; 8:51 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[4th Gen. Rev. of Export Regs., Corr. to Amdt. P. L. 2 [1]]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following commodities are added to the Positive List:

Dept. of Comm. Sched. B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits
	Other nonmetallic minerals (precious included):			
547300	Graphite electrodes for furnace or electrolytic work, 12 square inches cross section or 3 inches diameter and over.	Lb.	NONF	100
548050	Graphite crucibles	Unit	NONF	None
548098	Artificial graphite	------	NONF	100
599098	Zircon stones	------	CDGS	100
620998	Iron and steel manufactures: Centrifuge bowls, stainless steel.	------	CDGS	None
621303	Ferroalloys: Ferromanganese	Lb.	STEE	100
	Other nonferrous ores, metals, and alloys, except precious:			
663900	Tungsten carbide, except fabricated parts of cutting tools or dies.	Lb.	NONF	None
664560	Tantalum	Lb.	NONF	None
664595	Zirconium ore, including sand	Lb.	NONF	None
664598	Cerium ore, or rare earth oxide	Lb.	NONF	None
664598	Europium rare earth	Lb.	NONF	None
664598	Gadolinium rare earth	Lb.	NONF	None
664598	Lanthannum rare earth	Lb.	NONF	None
664598	Praseodynium rare earth	Lb.	NONF	None
664598	Samarium rare earth	Lb.	NONF	None
664598	Other rare earths, n. e. s	Lb.	NONF	None
664918	Cerium metal including misch metal in primary form except in fabricated lighter flints and abrasives.	Lb.	NONF	None
664960	Tantalum metal	Lb.	NONF	None
664995	Zirconium metals and alloys	Lb.	NONF	None
664998	Garmanium metal	Lb.	NONF	None
664998	Hafnium metal	Lb.	NONF	None
664998	Lanthannum metal	Lb.	NONF	None
664998	Indium metal	Lb.	NONF	None
664998	Other rare metals, n. e. s	Lb.	NONF	None
692209	Precious metals and plated ware, except jewelry, precious metals for dentistry, gold and silver ore, bullion, and coin: Rhodium.	Troy oz.	NONF	None
	Mining, well, and pumping machinery:			
	Concentrating and smelting machines:			
733105	Centrifuges, electric, stainless steel, solid bowl types.	Unit	CONS	None
733105	Magnetic separators (ore and rock), electro-magnetic cross-belt types.	Unit	CONS	None
733105	Magnetic separators, electro-static	Unit	CONS	None
733910	Other mining and quarrying machinery: Centrifuges, electric, stainless steel, solid bowl types.	------	CONS	None
	Parts for mining and quarrying machines:			
733990	Centrifuge bowls, stainless steel	------	CONS	None
733990	Parts for magnetic separators (ore and rock) electromagnetic crossbelt types.	------	CONS	None
	Mining, well, and pumping machinery—Con.			
	Parts for mining and quarrying machines—Con.			
733990	Parts for magnetic separators, electrostatic	------	CONS	None
	Petroleum refineries, components, and parts:			
734300	Centrifuges, electric, stainless steel, solid bowl types.	------	CONS	None
734300	Centrifuge bowls, stainless steel	------	CONS	None
735500	Pumps, centrifugal, fabricated of or lined with the following corrosion resistant materials: stainless steel; alloys containing over 50% nickel; nickel plate, and glass.	Unit	CONS	100
736990	Impellers and casings for the pumps listed above under Schedule B No. 735500.	------	CONS	None
	Other industrial machinery:			
759300	Other dairy equipment, and parts, for commercial use: Centrifuge bowls, stainless steel.	------	GIEQ	None
	Sugar-mill machinery, and parts:			
761100	Centrifuges, electric, stainless steel solid bowl types.	------	GIEQ	None
761100	Centrifuge bowls, stainless steel	------	GIEQ	None
	Brewer's machinery, and parts:			
761400	Centrifuges, electric, stainless steel, solid bowl types.	------	GIEQ	None
761400	Centrifuge bowls, stainless steel	------	GIEQ	None
	Vegetable oil mill machinery, and parts:			
761600	Centrifuges, electric, stainless steel, solid bowl types.	------	GIEQ	None
761600	Centrifuge bowls, stainless steel	------	GIEQ	None
	Food processing machinery, and parts, n. e. s.:			
761950	Centrifuges, electric, stainless steel, solid bowl types.	------	GIEQ	None
761950	Centrifuge bowls, stainless steel	------	GIEQ	None
774098	Vacuum gauges (ionization types), for industrial use.	------	GIEQ	None
774430	Pipe valves with bellows seal: stainless steel; nickel plated or glass lined valves with bodies of iron and steel (gate, globe, angle, tee, double disc, butterfly and damper types), either manually or automatically operated (excluding integral parts of other equipment).	Unit	GIEQ	None
774470	Pipe valves with bellows seal: made of alloys containing over 50% nickel; nickel plated or glass lined valves with bodies of brass, bronze, or other nonferrous metals (gate, globe, angle, tee, double disc, butterfly, and damper types) either manually or automatically operated (excluding integral parts of other equipment)	Unit	GIEQ	None

[1] This amendment was first published in 14 F. R. 3049. The correction consists of the inclusion in part 1 of the columns headed "Unit", "Processing code and related commodity group" and "GLV dollar value limits" which were inadvertently omitted.

Dept. of Comm. Sched. B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits
	Other industrial machinery—Continued			
	Chemical and pharmaceutical machinery and parts:			
775050	Centrifuges, electric, stainless steel, solid bowl type.	.....	GIEQ	None
775050	Centrifuge bowls, stainless steel	.....	GIEQ	None
	Industrial machinery, and parts, n. e. s.:			
775098	Centrifuges, electric, stainless steel, solid bowl type.	.....	GIEQ	None
775098	Centrifuge bowls, stainless steel	.....	GIEQ	None
	Medicinal and pharmaceutical preparations:			
	Bulk, in all forms:			
813583	Bismuth nitrate	Lb.	DRUG	None
813583	Bismuth oxide	Lb.	DRUG	None
	Industrial chemicals (exclusive of medicinal chemicals, U. S. P. and N. F.):			
839900	Zirconium oxides in all forms	.....	SALT	None
839900	Zirconium silicate	.....	SALT	None
	Scientific and professional instruments, apparatus and supplies, n. e. s.:			
	Scientific instruments and laboratory apparatus, and parts, n. e. s. including laboratory grade instruments and devices and standards of greater than one half of one percent accuracy of full scale deflection or value:			
919098	Betatrons, including major components	.....	SATE	None
919098	Centrifuges, electric, stainless steel, solid bowl type.	.....	SATE	None
919098	Centrifuge bowls, stainless steel	.....	SATE	None
919098	Microphotometers	.....	SATE	None
919098	Spectrometers, optical 1	.....	SATE	None
919098	Spectrophotometers	.....	SATE	None
919098	Synchrotrons, including major components.	.....	SATE	None
919098	Vacuum gauges (ionization types)	.....	SATE	None

2. The following commodities are deleted from the Positive List:

Dept. of Comm. Sched. B No.	*Commodity*
	Medicinal and pharmaceutical preparations:
	Bulk, in all forms:
813583	Bismuth subcarbonate (formerly 813590 and 839900).
813583	Bismuth subgallate (formerly 813590).
813583	Bismuth subsalicylate.

3. The dollar value limits in the column headed "GLV dollar value limits" set forth opposite each of the commodities listed below are amended to read as follows:

Dept. of Comm. Sched. B No.	Commodity	GLV dollar value limits
504600	Paraffin wax, refined, with melting point in the ranges of 125/127° through 128/130° amp	100
608100	Iron and steel wire, uncoated (plain, stainless, and alloy steel included) except bead wire, brush wire, mandrel wire, and tie wires for reinforcing bars, formerly 609198 (include baling wire, formerly 609198)	100

This amendment as corrected shall become effective as of May 27, 1949 except that, with respect to Part 1 hereof it shall become effective as of May 31, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-5135; Filed, June 27, 1949; 8:55 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52248]

PART 6—AIR COMMERCE REGULATIONS

AIRPORTS OF ENTRY

JUNE 21, 1949.

Change in name of Pan-American Field (or 36th Street Airport), Miami, Florida, § 6.12, Customs Regulations of 1943, as amended, further amended.

The official name of the Pan-American Field (or 36th Street Airport), Miami, Florida, which was designated as an airport of entry by T. D. 43003, dated October 16, 1928, has been changed to "Miami International Airport."

T. D. 43003 is hereby amended by substituting the name "Miami International Airport" for the name "Thirty-sixth Street (or Pan American) Air Field" appearing therein.

Section 6.12, Customs Regulations of 1943 (19 CFR, Cum. Supp., 6.12), is hereby amended by substituting the name "Miami International Airport" for the name "Pan-American Field (or 36th Street)" opposite "Miami, Florida."

(Sec. 7 (b), 44 Stat. 572, sec. 711, 58 Stat. 714, sec. 5, 60 Stat. 1049; 49 U. S. C. 177 (b))

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 49-5134 Filed, June 27, 1949; 8:55 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 146—CERTIFICATION OF BATCHES OF PENICILLIN- OR STREPTOMYCIN-CONTAINING DRUGS

PENICILLIN WITH VASOCONSTRICTOR

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal, Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463 and 61 Stat. 11; 21 U. S. C. 357) the regulations for certification of penicillin- or streptomycin-containing drugs (12 F. R. 2231, 4369; 14 F. R. 2544) are amended by substituting the following for subparagraph (2) (iii) of paragraph (c) of § 146.32:

§ 146.32 *Penicillin with vasoconstrictor.* * * *

(c) *Labeling.* * * *

(2) * * *

(iii) If it is a packaged combination of one immediate container of penicillin and one immediate container of a vasoconstrictor and it is not crystalline penicillin, the statement "Store in refrigerator not above 15° C. (59° F.)."

This order, which deletes the refrigeration requirement for the dry mixture of penicillin with vasoconstrictor, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the penicillin industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order and would be contrary to public interest, and I so find, since it was drawn in collaboration with interested members of the affected industry, and since it would be against public interest to delay providing that the refrigeration requirement for a dry mixture of penicillin with vasoconstrictor be deleted.

(Sec. 701 (a), 52 Stat. 1055; 21 U. S. C. 371 (a))

Dated: June 21, 1949.

[SEAL] J. DONALD KINGSLEY,
Acting Administrator.

[F. R. Doc. 49-5126; Filed, June 27, 1949; 9:00 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.89]

PART 65—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE CULTURAL-COOPERATION PROGRAM

BI-WEEKLY PAYMENT

Under the authority contained in R. S. 161 (5 U. S. C. 22) and 62 Stat. 6, Part 65 of Title 22 of the Code of Federal Regulations (formerly published as Part 28, Departmental Regulation 1, 9 F. R. 10243; Departmental Regulation 108.9, 11 F. R. 6904; Departmental Regulation 108.24, 11 F. R. 12044; Departmental Regulation 108.70, 13 F. R. 3184) which became effective on August 21, 1944 (22 CFR, 1944 Supp.) is hereby further amended by the addition of the following new paragraph:

§ 65.11 *Additional provisions.* * * *

(f) *Bi-weekly payment.* Unless otherwise specified in the grant, all compensation and allowances shall be payable to participants bi-weekly, and shall be computed as follows:

An annual rate shall be derived by multiplying a monthly rate by 12;

A bi-weekly rate shall be derived by dividing an annual rate by 26; and

A calendar-day rate shall be derived by dividing an annual rate by 364.

If any maximum compensation or allowance authorized by these regulations or by the terms of any grant is exceeded by this method of computation and payment, such excess payment is hereby authorized. This amendment of the regulations may apply to payments made to participants from funds administered as provided in § 65.2 (a) and (b) in the discretion of the department, agency, independent establishment, institution, facility, or organization concerned.

(R. S. 161, sec. 1, 53 Stat. 1290, 62 Stat. 6; 5 U. S. C. 22, 22 U. S. C. 501)

This regulation shall become effective July 10, 1949.

For the Acting Secretary of State.

[SEAL] JOHN E. PEURIFOY,
Deputy Under Secretary.

[F. R. Doc. 49-5127; Filed, June 27, 1949; 8:57 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg.,[1] Amdt. 116]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

TEXAS

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, Item 308a is amended to describe the counties in the Defense-Rental Area as follows:

Ellis, except the City of Waxahachie; and Kaufman.

This decontrols from §§ 825.1 to 825.12 (1) the City of Kerens in Navarro County, Texas, and the City of Waxahachie in Ellis County, Texas, portions of the Corsicana, Texas, Defense-Rental Area, based on resolutions submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Navarro County on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 311 is amended to read as follows:

(311) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 (1) the City of Dallas and the Town of Highland Park, in the Dallas, Texas, Defense-Rental Area, and all unincorporated localities in the remainder of said Defense-Rental Area, based on resolutions submitted for said City of Dallas and Town of Highland Park in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended and (2) the remainder of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

3. Schedule A, Item 324, is amended to describe the counties in the Defense-Rental Area as follows:

Marion and Upshur.
Camp and Morris.

This decontrols from §§ 825.1 to 825.12 (1) the City of Mt. Pleasant in Titus County, a portion of the Marshall, Texas, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Titus County and all of Harrison County, Texas, a portion of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective June 23, 1949.

Issued this 23d day of June 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-5129; Filed, June 27, 1949; 8:57 a. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg.,[1] Amdt. 111]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

TEXAS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, Item 308a is amended to describe the counties in the Defense-Rental Area as follows:

Ellis, except the City of Waxahachie; and Kaufman.

This decontrols from §§ 825.81 to 825.92 (1) the City of Kerens in Navarro County, Texas, and the City of Waxahachie in Ellis County, Texas, portions of the Corsicana, Texas, Defense-Rental Area, based on resolutions submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Navarro County on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 311 is amended to read as follows:

(311) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 (1) the City of Dallas and the Town of Highland Park, in the Dallas, Texas, Defense-Rental Area, and all unincorporated localities in the remainder of said defense-rental area, based on resolutions submitted for said City of Dallas and Town of Highland Park in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended and (2) the remainder of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

3. Schedule A, Item 324, is amended to describe the counties in the Defense-Rental Area as follows:

Marion and Upshur.
Camp and Morris.

This decontrols from §§ 825.81 to 825.92 (1) the City of Mt. Pleasant in Titus County, a portion of the Marshall, Texas, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Titus County and all of Harrison County, Texas, a portion of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective June 23, 1949.

Issued this 23d day of June 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-5128; Filed, June 27, 1949; 8:57 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

PALESTINE (ARAB CONTROLLED)

In § 127.323 *Palestine (Arab Controlled)* (13 F. R. 9199) amend subparagraph (7) of paragraph (a) to read as follows:

(7) *Observations.* (i) Service restricted to unregistered letters (including letter packages) and postcards, surface and air, addressed to the following:

Bethlehem.	Jericho.
Gaza.	Khan Yunis.
Hebron.	Nablus.
Jerusalem.	Ramallah.
Jenin.	Tulkarem.

[1] 13 F. R. 5706, 5788, 5789, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8218, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 682, 695, 856, 918, 979, 1005, 1083, 1345, 1394, 1519, 1570, 1571, 1587, 1666, 1667, 1733, 1760, 1823, 1868, 1932, 2059, 2060, 2084, 2176, 2233, 2412, 2441, 2545, 2605, 2607, 2608, 2695, 2746, 2761, 2796, 2897, 3079, 3120, 3152, 3200, 3234, 3280, 3311, 3353.

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8219, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345, 1520, 1570, 1582, 1587, 1669, 1670, 1734, 1759, 1869, 1932, 2061, 2062, 2085, 2176, 2237, 2413, 2440, 2441, 2545, 2607, 2608, 2695, 2746, 2761, 2796, 3079, 3121, 3153, 3201, 3234, 3280, 3311, 3353.

(ii) Articles for the part of Jerusalem under Israeli control must be addressed "Jerusalem, via Israel."

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON, *Postmaster General.*

[F. R. Doc. 49-5118; Filed, June 27, 1949; 8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

GIFT PARCELS TO BELGIUM AND LUXEMBURG (GRAND DUCHY)

After June 30, 1949, the ocean freight subsidy paid by the Economic Cooperation Administration with respect to relief parcels for Belgium and Luxemburg will be withdrawn because of the failure of the authorities in Belgium and Luxemburg to conclude an agreement with the Economic Cooperation Administration relative to free entry and defrayment of terminal charges on relief parcels sent to those countries. Accordingly, effective July 1, 1949, § 127.216 *Belgium* and § 127.295 *Luxemburg (Grand Duchy)* (13 F. R. 9117, 9181) are hereby amended as follows:

1. In § 127.216 *Belgium* strike therefrom paragraph (c) *U. S. A. gift parcels (Belgium)*.

2. In § 127.295 *Luxemburg (Grand Duchy)* strike therefrom paragraph (c) *U. S. A. gift parcels (Luxemburg)*.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943, 62 Stat. 137; 5 U. S. C. 22, 369, 372, 7 U. S. C. 612c (note), 22 U. S. C. 1501-1546)

[SEAL] J. M. DONALDSON, *Postmaster General.*

[F. R. Doc. 49-5119; Filed, June 27, 1949; 8:46 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter II—Children's Bureau, Social Security Administration, Federal Security Agency

MATERNAL AND CHILD HEALTH, CRIPPLED CHILDREN'S, CHILD WELFARE SERVICES AND EMERGENCY MATERNITY AND INFANT CARE PROGRAMS

By virtue of the authority vested in the Commissioner for Social Security by sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; secs. 501-521, incl., 49 Stat. 629-633, incl., 42 U. S. C. 701-721, incl., as amended by secs. 501-508, incl., 53 Stat. 1380-1381, incl., and sec. 401, 60 Stat. 986; sec. 1101 (a) (1), as amended by sec. 401, 60 Stat. 986; sec. 1, Reorganization Plan No. 2 of 1946, 11 F. R. 7873; Agency Order No. 9, 12 F. R. 479, the following regulations are prescribed for the administration of the Maternal and Child Health, Crippled Children's, Child Welfare Services and Emergency Maternity and Infant Care Programs:

1. Parts 200, 201 and 202 of the regulations heretofore issued (42 CFR, Cum. Supp. 200.1-202.12, as amended by 42 CFR, 1943 Supp. 201.5, 42 CFR, 1944 Supp. 202.4 and 42 CFR, 1945 Supp. 202.4) relating to the Maternal and Child Health and Crippled Children's Programs are hereby revoked and the following new regulations prescribed:

PART 200—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S PROGRAMS

Sec.

AUTHORITY: §§ 200.1 to 200.27 issued under sec. 1102, 49 Stat. 647, as amended; 42 U. S. C. 1302.

§ 200.1 *Terms.* Unless the context otherwise requires, the following terms, as used in this part and in Part 202 of this chapter have the following meanings:

(a) "State" means the several States, Alaska, Hawaii, the District of Columbia, Puerto Rico and the Virgin Islands;

(b) "State Agency" means the official agency of a State administering or supervising the administration of a State Plan for Maternal and Child Health or Crippled Children's Services;

(c) "Act" means the Social Security Act (49 Stat. 620, 42 U. S. C. 301) as amended (53 Stat. 1381, 42 U. S. C. 721);

(d) "Administrator" means the Federal Security Administrator;

(e) "Commissioner" means the Commissioner for Social Security in the Federal Security Agency;

(f) "Bureau" means the Children's Bureau in the Federal Security Agency;

(g) "Chief" means the Chief of the Children's Bureau in the Federal Security Agency;

(h) "Obligation" means a debt properly incurred by a State agency in carrying out the provisions of an approved State plan;

(i) "Official forms" means forms supplied by the Bureau to State agencies for requesting funds and for submitting State budgets or reports under Parts 1 and 2 of Title V of the act;

(j) "Crippled children" means those children, below the age of 21, who are handicapped or suffering from conditions which may lead to being handicapped, under the definition adopted by the State Agency;

(k) "Facilitating services" means transportation, subsistence away from home, drugs, biologicals, communications, supplies and equipment as may be necessary for the provision of maternal and child health or crippled children's services;

(l) "Health" means a state of physical and mental well-being, not merely the absence of disease or infirmity;

(m) "Medical care" means services, including services in hospitals and convalescent homes, by physicians and the allied services of dentists, nurses, medical-social workers, nutritionists, dietitians, physical therapists, technicians and other personnel whose services are needed

(1) With respect to the maternal and child health services program, for the improvement of the health of mothers and children, or,

(2) With respect to the crippled children's services program, to restore a crippled child to maximum health, or to cure or prevent the advance of an illness that may lead to crippling;

(n) "Maternal and child health services" means (1) the provision of educational, preventive, diagnostic and treatment services, including medical care, hospitalization and other institutional care and after care, appliances and facilitating services directed toward improving the health of mothers and children; (2) the development, strengthening and improvement of standards and techniques relating to such services and care; (3) the training of personnel engaged in the provision, development, strengthening or improvement of such services and care; and, (4) necessary administrative services in connection with the foregoing;

(o) "Crippled children's services" means (1) the location of crippled children; (2) the provision for such children of diagnostic and treatment services, including medical care, hospitalization and other institutional care and after care, appliances and facilitating services directed toward the diagnosis of the condition of such children or toward the restoration of such children to maximum physical and mental health; (3) the development, strengthening and improvement of standards and techniques relating to the provision of such care and services; (4) the training of personnel engaged in the provision, development, strengthening or improvement of such care and services; and (5) necessary administrative services in connection with the foregoing;

(p) "Demonstration services" means either (1) the provision in a county, district, or community of more and better maternal and child health services than

are available in any comparable area in the State, utilizing facilities meeting acceptable standards and personnel who are especially well qualified, for the purpose of establishing standards of care and service that can be shown to be practical, effective and adequate to improve the health of mothers and children, or (2) the provision of a special type of maternal and child health service for the purpose of proving its value in improving the health of mothers and children and in providing information on cost, methods of development, techniques of provision and the administration of a given type of health service not generally available to mothers and children;

(q) "Expenditures for Identifiable MCH or CC Services" means expenditures made, or obligations incurred, during a fiscal year, in accordance with the provisions of the approved State Plan for Maternal and Child Health Services or Crippled Children's Services, for:

(1) The salaries and travel, including per diem in lieu of subsistence during travel and other administrative expenditures necessarily incurred in the performance of their duties, of

(i) Persons employed in the Maternal and Child Health or Crippled Children's Units;

(ii) Persons employed in other units of the State agency or in a local agency devoting their full time to planning, promoting, coordinating or providing educational, preventive, diagnostic or treatment services solely for mothers and children uinder either or both of such State plans;

(iii) Practicing physicians and dentists and other professional personnel employed part time by the State or local agency for consultation or for providing medical care directly to mothers and children;

(2) Specialized training in fields directly related to the Maternal and Child Health or Crippled Children's Programs and, for employees in subdivisions (i) and (ii) of subparagraph (1) of this paragraph generalized health training;

(3) The purchase for mothers and children of diagnostic and treatment services, including medical care, hospital and other institutional care and after care, appliances and facilitating services;

(4) Biologicals, drugs, equipment, supplies, communications, publications, films and other materials or services purchased solely for use in carrying out either or both of such State Plans; and,

(5) Rent, tenant repairs and upkeep of space used exclusively for housing Maternal and Child Health or Crippled Children's Program Units or for the provision of maternal and child health or crippled children's services.

§ 200.2 *State plans; general requirement; form, contents, and amendment.* (a) The basic condition to the certification of Federal funds is a State Plan for Maternal and Child Health Services or a State Plan for Crippled Children's Services, approved as meeting requirements of Title V, Parts 1 and 2, of the act and regulations established thereunder.

(b) State Plans shall follow the instructions as to form and content indicated in the Plan Instructions to be released by the Bureau pursuant to the regulations in this part and shall contain descriptions of all material phases of the Maternal and Child Health or Crippled Children's Programs, including (1) their legal bases, (2) the manner in which their purposes, as contemplated by section 501 and 511 of the act, will be carried out, (3) their scope and content, and (4) the policies, standards, methods and procedures relative to (i) their administration, (ii) the supervision of their administration, (iii) their operation, and (iv) their compliance with the requirements of the act.

(c) State plans and budgets shall be revised, in accordance with instructions from the Bureau, whenever there are significant changes.

§ 200.3 *Administration locally of State Plans.* State Plans shall:

(a) Provide for their administration in local communities.

(1) Directly by the State Agency; or

(2) By local public agencies which are, with respect to their administration locally of such plans, supervised by the State Agency; or,

(3) By a combination of the foregoing methods of administration; and

(b) Set forth the manner in which the State Agency will exercise and make effective its supervision over the operations of the local public agencies with respect to their administration locally of such plans.

§ 200.4 *Program units.* (a) State Plans shall provide:

(1) With respect to the maternal and child health services program, for the establishment in the State Agency, under the direction of a program director, of a separate organizational unit charged primarily with responsibilities in the field of maternal and child health and including, at least, the planning, promoting, and coordinating of maternal and child health services and the administration of the unit and its staff as provided under the State Plan;

(2) With respect to the crippled children's services program for the establishment, in the State Agency, of a separate organizational unit charged primarily with responsibilities in the field of health services for crippled children and including, at least, the planning, promoting and coordinating of crippled children's services and the administration of the unit and its staff as provided under the State Plan: *Provided*, That, where the major functions of the State Agency relate to the provision of health services to children, as in the case of a Crippled Children's Commission, such commission shall itself be considered as the separate organizational unit required.

(b) State Plans may provide for combining the Crippled Children's Program Unit and the Maternal and Child Health Program Unit into one organizational unit under the direction of a single program director.

§ 200.5 *Program directors.* State Plans shall provide that the Maternal and Child Health and Crippled Children's Program Unit or Units, will both or each be under the direction of a program director who will be (a) a Doctor of Medicine; (b) a full-time employee of the State Agency; (c) devoting his full time, during the hours of his employment by the State Agency, to the work of the Program Unit of which he is the director: *Provided*, That the Chief may approve a plan provision providing for the part-time employment of such Doctor of Medicine where satisfactory evidence is submitted justifying such a provision.

§ 200.6 *Information on services available.* State Plans shall describe how the public throughout the State will be fully informed, insofar as feasible, as to the maternal and child health and crippled children's services available under such State Plans.

§ 200.7 *Limitations on provision of services.* State Plans for maternal and child health and crippled children's services shall provide that hospital, convalescent or foster home care, or appliances provided to individuals under the plans will be made available only to individuals who are receiving medical services provided or arranged for by the State Agency in accordance with the standards and policies of the plan.

§ 200.8 *Crippled Children's Program; required content.* State Plans for Crippled Children's Services shall make provision for:

(a) Services for locating crippled children;

(b) The diagnosis and evaluation of the condition of such children;

(c) Treatment services including at least appropriate services by physicians, appliances, hospital care and after care as needed; and,

(d) The development, strengthening and improvement of standards and services for crippled children.

§ 200.9 *Crippled Children's Program; diagnostic services.* State Plans for Crippled Children's Services shall provide that the diagnostic services under the plan will be made available within the area served by each diagnostic center to any child (a) without charge, (b) without restriction or requirement as to the economic status of such child's family or relatives or their legal residence, and (c) without any requirement for the referral of such child by any individual or agency.

§ 200.10 *Standards relating to the provision of services.* State Plans for maternal and child health and crippled children's services shall describe the standards required for personnel, and facilities utilized in the provision of such services as (a) are found, upon investigation by the State Agency, to be best adapted for the attainment of the specific purpose, (b) will assure a reasonably high standard of care, and (c) are

in substantial accordance with national standards as accepted by the Bureau or standards prescribed by the Bureau.

§ 200.11 *Authorizations of service.* State Plans shall provide that, all services purchased for individuals under the plan will be authorized by employees of the State Agency, or by employees of the local public agency administering a part of the plan locally under the supervision of the State Agency, and that record of such authorizations will be retained by the State or local public agency as a part of the individual's case record.

§ 200.12 *Confidential information.* State Plans shall:

(a) Provide that all information as to personal facts and circumstances obtained by the State or local staff administering the program shall constitute privileged communications, shall be held confidential and shall not be divulged without the individual's consent except as may be necessary to provide services to individual mothers and children: *Provided,* That, information may be disclosed in summary, statistical or other form which does not identify particular individuals; and

(b) Set forth suitable regulations and safeguards to carry out the provisions of paragraph (a) of this section.

§ 200.13 *Rates of payment for medical care; appliances and convalescent and foster home care.* State Plans shall:

(a) Set forth the methods utilized by the State Agency in establishing and substantiating that rates of payment for medical care, appliances, and convalescent and after care provided under such plans are reasonable and necessary to maintain the standards relating to the provisions of services established pursuant to § 200.10, and,

(b) Provide that schedules of the rates thus established will be maintained by the State Agency at its offices.

§ 200.14 *Rates of remuneration for hospital care.* State Plans shall provide that payments for hospital care will not be in excess of the inclusive per diem costs computed in accordance with methods established by the Bureau.

§ 200.15 *Additional remuneration for services.* State Plans shall provide that professional personnel, hospitals, and other individuals, agencies or groups providing any services authorized by the State Agency, under a State Plan, shall agree not to make any charge to or accept any payment from the patient or his family for such services unless the amount of such payment is determined and authorized for each patient by the State Agency.

§ 200.16 *Maintenance of State records.* State Plans shall provide that, for reporting purposes, there will be maintained at the State level such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of Federal grants, including the disposition of all moneys received and the nature and amount of all charges claimed to lie against the respective Federal authorizations.

§ 200.17 *Maternal and Child Health Program; demonstration services.* State Plans for Maternal and Child Health Services shall provide for the development of demonstration services in needy areas and among groups in special need and shall set forth the policies, standards and criteria applicable to the development and provision of such services, and to the selection of such areas and groups.

§ 200.18 *Limitations on use of Federal funds.* The proportion of the total annual expenditure of Federal and matching funds under maternal and child health or crippled children's plans which are made for identifiable maternal and child health or crippled children's services and the maximum which may be expended for general administration, generalized health or other supporting services, shall be established by the Bureau for each fiscal year and the States notified after conference with State officials at least six months before the beginning of such fiscal year.

§ 200.19 *Preparation of schedules of expected allotments.* Prior to the beginning of each fiscal year the Chief will prepare and make available to the several State agencies an estimated schedule of the amounts which it is expected will be allotted to each State during the fiscal year for each program.

§ 200.20 *Submission of budgets by State Agencies.* Prior to the beginning of each fiscal year, the State Agency shall submit, upon official forms and in accordance with procedures established by the Bureau, an annual budget appropriately documented and supported and indicating the availability and sources of all funds and indicating the purposes for which the funds are to be expended.

§ 200.21 *Payments to States; effect of certification.* Neither the approval of the State Plan nor any certification of funds or payment to the State pursuant thereto shall be deemed to waive the failure of the State to observe before or after such administrative action any Federal requirements or the right or duty of the Commissioner to withhold funds by reason thereof.

§ 200.22 *Private funds.* Funds obtained from private sources and made fully available for expenditure by the State Agency under the approved State Plan may be included in the computation of the amounts of public funds expended: *Provided,* That, funds provided by private agencies or institutions whose facilities are to be used in carrying out the State Plan under arrangements involving compensation for such use shall not be included in such computation. Private funds shall be placed on deposit in accordance with the State law, but if there is no State law setting forth applicable procedures, the funds shall be deposited with the State Treasurer, the Treasurer of a political subdivision, or in a private depository, in a special account to the credit of the State Agency. If the funds are deposited with the State Treasurer or the Treasurer of a political subdivision, the certificate of the Treasurer shall be furnished showing the deposit of such funds in a special account to the credit of the State Agency. If the funds are placed in a private depository, the certificate of an officer of the private depository shall be furnished showing the deposit of such funds in a special account to the credit of the State Agency.

§ 200.23 *Equipment and supplies.* All items of equipment or supply purchased wholly or partly with Federal funds are to be used only for the purposes for which such Federal funds may be allowed and the State Agency shall maintain a complete equipment inventory and adequate property controls.

§ 200.24 *Application of Federal funds; effect of State rules.* Except as specifically stated in the act and in these regulations, State laws, rules, regulations and standards governing the custody and disbursement of State funds shall govern the custody and disbursement of Federal funds paid to the State.

§ 200.25 *Custody of Federal funds.* The State Treasurer or official exercising similar functions for the State shall receive and provide for the custody of all funds paid to the State under the act, subject to requisition or disbursement thereof by the State Agency for plan purposes.

§ 200.26 *Earned interest.* Interest on grants made under the act shall be duly credited to the principal of the grant, and duly reported to the Bureau by the State Agency on the ensuing budgetary estimate.

§ 200.27 *Collections.* Any amounts refunded or paid to the State for services or supplies provided under the Maternal and Child Health or Crippled Children's plan shall be credited to the Federal account in proportion to the Federal participation in the expenditures by reason of which such refunds or payments were made.

2. Part 203 of the regulations heretofore issued (42 CFR, Cum. Supp. 203.1–203.9, as amended by 12 F. R. 3809) relating to the Child Welfare Services Program is hereby redesignated "Part 201";

3. Part 204 of the regulations heretofore issued (42 CFR, Cum. Supp. 204.1–204.7, as amended by 42 CFR, 1945 Supp. 204.2–204.4 and 13 F. R. 2753, 204.1–204.11) relating to the Emergency Maternity and Infant Care Program is hereby redesignated "Part 202";

4. These regulations shall become effective on July 1, 1950.

Dated: June 13, 1949.

[SEAL] A. J. ALTMEYER,
Commissioner.

Approved: June 15, 1949.

J. DONALD KINGSLEY,
Acting Federal Security Administrator.

[F. R. Doc. 49–5125; Filed, June 27, 1949; 9:10 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 591]

CALIFORNIA

TRANSFERRING JURISDICTION OVER OIL AND GAS DEPOSITS IN CERTAIN LANDS OWNED BY UNITED STATES

Correction

In Federal Register Document 49-4999, which appeared on page 3414 of the June 23, 1949, issue, the second paragraph dealing with land description under paragraph 1, should read as follows:

On the south by the north line of Seventh Street, on the west by the easterly line of Bellflower Boulevard, on the north by the center line of said sec. 34 and its easterly prolongation, and on the east by a line parallel to and distant 395 feet easterly from the east line of said sec. 34, containing 100 acres, more or less, situated in Los Angeles County, California, and shown on map of Naval Hospital Site on file in the Bureau of Land Management, file Misc. 49880.

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 24—RESEARCH REFUGES

The following part is added to Title 50:

SUBPART A—PROTECTION OF WILDLIFE

Sec.
24.1 Public use policy.
24.2 Hunting.
24.3 Fishing.
24.4 Trapping.
24.5 Recreation and other public uses.
24.6 Injurious objects.

SUBPART B—TAKING OF WILDLIFE

24.11 Wildlife research purposes.
24.12 Fishery research purposes.
24.13 Scientific specimens.

SUBPART C—ACCESS: TEMPORARY USE

24.21 Access.
24.22 Scientific study; photography.

AUTHORITY: §§ 24.1 to 24.22 issued under sec. 10, 45 Stat. 1224, sec. 401, 49 Stat. 383, sec. 4, 60 Stat. 1080; 16 U. S. C. 664, 715i, s; Reorg. Plan II of 1939, 4 F. R. 3721; Reorg. Plan III of 1940, 5 F. R. 2107.

CROSS REFERENCE: For other regulations applicable to Research Refuges see Parts 1, 16, and 18 of this title.

SUBPART A—PROTECTION OF WILDLIFE

§ 24.1 *Public use policy.* The primary purpose of a research refuge is to provide an outdoor laboratory and other facilities for conducting investigations, tests, and experiments on wildlife diseases, populations, and habitat as a means of providing a sound basis for the administration and management of wildlife resources. In general, public uses of a research refuge, including hunting, fishing, trapping, and recreational activities not provided for in §§ 24.2 to 24.5, are detrimental to the fulfillment of the objectives of such areas.

§ 24.2 *Hunting.* The hunting or taking of wildlife on a research refuge in any manner or by any means is prohibited except as may be prescribed by law or authorized in this part.

§ 24.3 *Fishing.* Fishing is prohibited except on areas designated by the officer in charge pursuant to Subpart B of this part.

§ 24.4 *Trapping.* The setting of traps or other devices by the public for the taking of fur animals or any other kind of wildlife is prohibited except as may be authorized in this subchapter.

§ 24.5 *Recreation and other public uses.* Recreational and other public uses will not be permitted and are expressly prohibited except as authorized by the officer in charge on areas designated by him for those purposes.

§ 24.6 *Injurious objects.* The removal of injurious animal life or other harmful objects from a research refuge and the disposition thereof in accordance with law and order of the Secretary or Director shall be made by or under the direction of the officer in charge.

SUBPART B—TAKING OF WILDLIFE

§ 24.11 *Wildlife research purposes.* The officer in charge may authorize the taking of game birds and game animals or the trapping of fur animals on research refuges under such conditions and restrictions as may be required to collect reliable data for investigations, tests, or experiments. Each person participating in such operations on a research refuge shall possess and shall exhibit upon request to any authorized Federal or State officer whatever license or permit if any is required by Federal or State laws and regulations. With the approval of the Director and the consent of the State, the officer in charge is authorized to direct the taking of game and fur animals at other than prescribed seasons when such taking is necessary for the conduct of official investigations on the refuge.

§ 24.12 *Fishery research purposes.* Impoundments and natural waters on research refuges are not available for general public fishing for recreation. Use of these waters in wildlife development experiments and for investigation on fish productivity in relation to management practices generally precludes such activity. Whenever harvesting of fish crops from experimental waters is to be done by fishing it may be authorized by the officer in charge in accordance with such plans as will give reliable and complete data for the experiments or tests concerned. Except as otherwise provided by law, whenever it may be necessary for research purposes to harvest the game fish crop by fishing not conforming to seasons, limits, and other regulations set by the State it shall be with the concurrence of the State. Each person authorized to fish in connection with such investigations shall possess or shall exhibit upon request of any Federal or State officer whatever license or permit if any is required by State law or regulation and a Federal permit issued by the officer in charge.

§ 24.13 *Scientific specimens.* Subject to the provisions of § 6.8 and §§ 7.1 to 7.5. When the removal of specimens of plant and animal life or other natural objects, including the nests and eggs of birds, will not interfere with experiments, tests, and other investigations in progress, such specimens may be taken on a research refuge for scientific exhibition, restocking, or propagating purposes under special permit issued by the Secretary and countersigned by the Director but no such permit shall be deemed to authorize the taking, possession, transportation, or sale of any wildlife or of the nests and eggs of birds contrary to State law.

SUBPART C—ACCESS; TEMPORARY USE

§ 24.21 *Access.* The laboratory and headquarter areas of any research refuge shall be open to the public during official business hours. The officer in charge may authorize tours of inspection, travel to and temporary use of such areas as he may specifically designate.

§ 24.22 *Scientific study; photography.* The officer in charge may authorize persons to enter a research refuge for scientific investigations and for amateur photography or other minor purposes if such use does not interfere with official projects of the refuge.

Dated: June 20, 1949.

O. H. JOHNSON,
Acting Director.

[F. R. Doc. 49-5117; Filed, June 27, 1949; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[P. & S. Docket No. 450]

DENVER UNION STOCK YARD CO.

NOTICE OF PETITION FOR MODIFICATION

On June 13, 1949, by order of the Judicial Officer of the Department of Agriculture, the respondent was permitted to make effective certain temporary modifications of its charges for yarding livestock. On June 16, 1949, the respondent filed a petition requesting further temporary modifications of its charges for yarding livestock as hereinafter described, alleging that, through inadvertence, the request for further modifications now proposed was omitted from its petition to which the Judicial Officer's order of June 13, 1949, was directed. The further modifications now requested are as follows:

YARDAGE CHARGES

	Present charges	Proposed charges
Hogs:	*Per head*	*Per head*
Direct hogs by rail	12¢	14¢
Direct hogs by truck	14¢	16¢

Respondent also requests permission to add a new yardage charge as follows:

	Proposed charge (per head)
Bulls by rail	$1.00
Bulls by truck	1.07

If authorized the modifications will produce additional revenues for the respondent and increase the cost of marketing to the shippers. Accordingly, it appears that public notice should be given of the filing of the petition in order that all interested persons may have an opportunity to be heard in the matter.

Now, therefore, notice is hereby given to the public and to all interested persons of the filing of such petition.

All interested persons who desire to be heard upon the matter requested in said petition shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days from the date of publication of this notice.

Done at Washington, D. C., this 23d day of June 1949.

[SEAL] H. E. REED,
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 49-5139; Filed, June 27, 1949; 8:56 a. m.]

[7 CFR, Part 29]

TOBACCO INSPECTION

ANNOUNCEMENT OF REFERENDUM IN CONNECTION WITH PROPOSED DESIGNATION UNDER TOBACCO INSPECTION ACT OF TOBACCO AUCTION MARKET OF DUNN, N. C.

Pursuant to the authority vested in the Secretary of Agriculture by the Tobacco Inspection Act (49 Stat. 731; 7 U. S. C. 511 et seq.), and in accordance with the applicable regulations (13 F. R. 9474–9479) issued thereunder by the Secretary, notice is given that a referendum of tobacco growers will be conducted from June 30 through July 2, 1949, to determine whether the tobacco auction market at Dunn, North Carolina, shall be designated by the Secretary under said act for the mandatory inspection of tobacco sold thereat.

Growers who sold tobacco at auction on the Dunn, North Carolina, market during the 1948 marketing season shall be eligible to vote in said referendum. Ballots for use in said referendum will be mailed to all eligible voters insofar as their names and addresses are known. Eligible voters who do not receive ballots by mail may obtain them from the county agent, or the office of the county agricultural conservation association at Lillington, North Carolina, or from the Dunn Chamber of Commerce, Dunn, North Carolina.

All completed ballots shall be mailed to the Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture, P. O. Box 549, Raleigh, North Carolina, and in order to be counted in said referendum, must be postmarked not later than midnight, July 2, 1949.

Issued this 23d day of June 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-5120; Filed, June 27, 1949; 8:46 a. m.]

[7 CFR, Part 988]

HANDLING OF MILK IN KNOXVILLE, TENNESSEE, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Supps., 900.1 et seq.), a public hearing was held at Knoxville, Tennessee, on July 21 to 23, and July 26 to 28, 1948, all dates inclusive, pursuant to a notice issued on June 30, 1948 (13 F. R. 3740), upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Knoxville, Tennessee, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on May 19, 1949, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER May 24, 1949 (14 F. R. 2716).

The material issues presented on the record were:

(a) Whether the handling of milk in the Knoxville, Tennessee, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce;

(b) Whether marketing conditions justify the issuance of an order regulating the handling of milk in the Knoxville, Tennessee, marketing area; and

(c) If issuance of such an order is justified, what its provisions should be.

The evidence on this issue involved the following:

(1) The extent of the marketing area;

(2) The definition of "producer," "handler," "producer-handler," "fluid milk plant," "other source milk," "delivery period," and other terms;

(3) The classification of milk and milk products;

(4) Transfers of milk between handlers and between handlers and nonhandlers;

(5) Allocation of skim milk and butterfat classified;

(6) The determination and level of class prices;

(7) Payments to producer;

(8) The amount of administrative assessment;

(9) The amount of deduction for marketing services; and

(10) The administrative provisions common to all orders.

Rulings on exceptions. Exceptions to the recommended decision were filed on behalf of the following:

Knoxville Milk Producers' Association.
Pet Dairy Products Co.
Southern Dairies, Inc.
French Broad Dairy.
Broad Acres Dairy.
Avondale Farms.
Wolfe Dairy.
Sunnyview Dairy.
Haddox Dairy.
Stoffel's Dairy.
Maynard Dairy.
Russell Dairy.
Livonia Dairy.

In arriving at the findings, conclusions, and actions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions,

and action decided upon herein with respect to the several issues are at variance with the exceptions pertaining thereto such exceptions are overruled.

Exceptions filed on behalf of Knoxville distributors raise a question as to the responsiveness of the record to present conditions. They do not contend that the evidence taken some 11 or 12 months past cannot be used to establish the facts giving the Secretary jurisdiction to issue an order, to fix prices, including a floor price, to determine the value of labor, supplies, and material, and other economic conditions in the market, as of the time of the close of the hearing. However, they do contend that the Secretary can neither project such facts to cover the period between the close of the hearing and the date of the recommended decision, nor can he use such evidence to establish prices, including floor prices in any order he may now issue.

From the very nature of a promulgation hearing as well as the requirements of the Administrative Procedure Act, it is impossible to issue an order or regulation without projecting the basic material facts disclosed by the hearing record or assuming that such facts continue to exist during the interval between the close of the hearing and the issuance of the order or regulation based upon such record. The handlers in their exceptions do not point out any material changes in the basic facts as disclosed by the record. A careful review of the hearing record discloses that all of the findings and conclusions of the Assistant Administrator were based upon evidence contained in the hearing record at the time of the hearing and not upon any intervening facts with the single exception of prices.

In fixing the prices for milk sold in the marketing area, including floor prices for the fall of 1949, official notice was taken of the act of the Secretary in establishing a support program for manufacturing milk and butterfat through the purchase of butter and nonfat dry milk solids. The handlers, themselves, do not contend that official notice cannot be taken of the official acts of the Secretary. Accordingly, it is concluded that the exceptions of the Knoxville distributors should be and hereby are overruled.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

(a) The handling of milk in the Knoxville, Tennessee, marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and its products.

It is evidenced from the following facts that milk and milk products move into and out of the Knoxville market without regard to state boundaries, and the milk produced for the Knoxville market competes with milk and its products moving in the current of interstate commerce through manufacturing outlets and other fluid milk markets:

(1) Knoxville handlers obtain their supplies of milk for fluid consumption from sources both within and outside of the State of Tennessee. Whole milk is purchased from dairy farms, approved by the Knoxville Health Department, located within the State of Tennessee. Additional approved supplies of milk have been received from plants located in the States of Wisconsin and Minnesota. Such supplies of milk have been received as follows: December 1944, 37,925 gallons from Hartford and Antigo, Wisconsin, and Winona, Minnesota; February and March, 1945, 63,912 gallons from Hartford and Antigo, Wisconsin, and Winona, Minnesota; and April 1945, 11,315 gallons from Hartford, Wisconsin.

Large quantities of approved condensed skim milk, milk powder, and fluid cream are regularly received by Knoxville handlers from other states, principally Wisconsin, for fluid distribution. Such shipments in recent years, converted to a milk equivalent, are as follows: 1945, 2,488,329 gallons of condensed skim milk, 78,197 gallons of milk powder, and 181,997 gallons of cream; 1946, 1,301,511 gallons of condensed skim milk, and 84,048 gallons of cream; 1947, 1,827,711 gallons of condensed skim milk, 111,354 gallons of milk powder, and 57,075 gallons of cream; and 1948, 389,967 gallons of condensed skim milk, 152,237 gallons of milk powder, and 15,570 gallons of cream. The movement of these out-of-state supplies into the Knoxville market is greater during the fall and winter months, but some has been brought in at all times of the year and commingled with milk purchased locally in the plants of Knoxville handlers for sale in competition with the local milk. In addition to these receipts, substantial quantities of ungraded condensed skim milk, milk powder, and cream were received from other states. During the year of 1947, the total receipts of all milk products by Knoxville handlers from other states amounted to more than 20 percent of their total receipts of milk and milk products from all sources.

The record indicates that Knoxville handlers import, from out-of-state, large quantities of butter which are sold in competition with butter manufactured from local supplies.

(2) There is competition in the procurement of milk produced in Tennessee for the Knoxville market and for the Chattanooga, Tennessee, market, which latter market procures milk from sources outside of Tennessee. Approximately 30 to 35 percent of the milk supply for the Chattanooga, Tennessee, fluid market comes from farms located within or adjacent to the southwest portion of the Knoxville milkshed. The Chattanooga market serves consumers in both the State of Tennessee and the State of Georgia, and receives approximately 30 percent of its milk supply from dairy farms located in the State of Georgia.

(3) There is direct competition for milk supplies in the Knoxville milkshed between Knoxville handlers and local manufacturing plants. Dairy farmers located in the Knoxville milkshed may elect to sell their milk to one of several local fluid markets or to one of three manufacturing outlets. The Pet Milk Company receives milk regularly from the northeast portion of the Knoxville milkshed for an evaporating milk plant located at Greeneville, Tennessee. The Scott Cheese Company, located at Sweetwater, Tennessee, in the southwest portion of the Knoxville milkshed, purchases milk from dairy farmers for use in cheese making. The Sugar Creek Creamery operates a plant at Knoxville, Tennessee, at which they buy cream for butter making. Milk so purchased by these manufacturing plants is made into products which are sold out-of-state, as well as in Tennessee markets.

(4) There are substantial quantities of milk produced in Tennessee which are disposed of outside of the state by Knoxville handlers for use in fluid or other form. The record shows that Pet Dairy Products Company, a handler in the Knoxville market, disposed of 19.58 percent of its total bottled sales in areas outside of the state during the month of May 1948. This handler also shipped 1,265,803 pounds of Knoxville Grade A producer milk in bulk to Big Stone Gap, Virginia, during the months of April through September 1947.

(5) Bottled milk, cream, chocolate milk, and ice cream are disposed of by Knoxville handlers to the Knoxville airport for consumption locally and on planes operating interstate. Bottled milk is also sold by Knoxville handlers to the Southern Railroad which places it in dining cars and transports and sells it outside the State of Tennessee.

(b) A marketing agreement and order regulating the handling of milk in the Knoxville, Tennessee, marketing area is needed in order to establish a well-defined and uniform price plan which will guarantee producers equal shares of the market and returns sufficient to attract an adequate supply of pure and wholesome milk, and to protect the public interest.

The dairy industry in the Knoxville market grew very rapidly during World War II with the result that the volume of milk distributed by the 13 handlers has approximately doubled the volume distributed prior to the war. These sales of milk to consumers in Knoxville, Tennessee, are required to be made from Grade A supplies in accordance with the requirements of a revised milk ordinance adopted by the city on February 8, 1944. Although the market has experienced some increase in the number of Grade A producers and in the total production of graded milk in the past two years, such increase in production has not kept pace with the growing demand, and the market has been required to obtain additional supplies of graded milk from distant sources. Within the Knoxville milkshed there is sufficient milk produced to supply all fluid requirements of the market, but a sufficient number of dairy farmers, now producing milk for sale to nearby manufacturing plants, have not been attracted to the Knoxville Grade A market. It must be concluded that the difference between the prices paid for milk for manufacturing purposes and prices paid by Knoxville handlers has been insufficient to compensate such farmers for the added costs of producing milk which meets the health requirements for fluid consumption in the City of Knoxville and to provide the necessary incentive to encourage such dairy farmers to shift to the Knoxville Grade A market.

During this rapid growth in the industry, most of the organized producers have not been in a position to augment supplies by enlarging their membership or by encouraging higher production per member. There are 475 producers selling Grade A milk to the Knoxville market. Of this total, 179 producers are members of the Knoxville Milk Producers' Association, and approximately 40 are members of the Monroe County Cooperative. The Knoxville Milk Producers' Association (proponents of the proposed order), has engaged in making collective sales of milk of its members to the majority of handlers in Knoxville, while the milk of Monroe County Cooperative producers is sold to one large handler who also buys milk from the Knoxville Milk Producers' Association. When the Knoxville Milk Producers' Association began operations in 1933, it had a membership of 503 producers which represented about 98 percent of the milk sold in the Knoxville market.

Since its organization, the association has attempted to work out various plans of marketing milk which would encourage the development of supplies in relation to demand. The first of such plans was an attempt to sell milk on a class-use basis from 1933 to 1937. This attempt broke down because all handlers who bought milk did not keep accurate plant records from which proper audits could be made.

During the period 1939–1942, the association operated a processing plant for the disposal of "surplus" milk which was supposedly not needed for fluid uses. At the time the processing plant was in operation, some of the handlers agreed to pay the association a specified price for milk for fluid uses with any supposedly excess member milk being delivered to the processing plant. Thus, the average price returned to members of the association was affected by the amount of excess milk handled in the processing plant, while some handlers, purchasing milk from nonmembers, paid such producers on the basis of the association's average price and others paid such nonmembers on the basis of the price of milk for fluid uses. This practice resulted in a depressing effect upon the total returns to producers as well as an unequal distribution of the total returns among producers.

After the failure of the prior attempts to work out an acceptable marketing plan, the association was forced to negotiate a "flat" price for all milk delivered. The negotiation of such a price was influenced by the amount of any anticipated or claimed surplus without an accounting of the actual amount of surplus experienced in the total market or any pooling between handlers to equalize the cost of disposing of any burdensome surplus. Furthermore, it is indicated that, during the spring of 1947 when handlers were complaining of burdensome surpluses, additional Grade A supplies were purchased from sources outside of the market.

In addition, the failure to work out a fair and equitable pricing plan in the market has contributed to many discriminatory practices. Some handlers have followed the practice of free hauling of milk for certain producers. Certain handlers have assisted some producers by financing, interest free, improvements required to enable them to qualify as, or to continue to qualify as, graded producers. In some instances this financing has also extended to livestock purchases. Some handlers have made deductions of as much as 75 cents per hundredweight in paying certain producers for milk which was temporarily degraded by the health authorities while other producers received no deduction for such milk.

The lack of a well-defined and uniform pricing policy and the prevalence of the many discriminatory practices in the payment for milk have not contributed to stable marketing by assuring producers uniform and dependable prices consistent with changing economic conditions, or assuring producers direct payment for milk in accordance with the weights, butterfat tests, and uses made thereof. Pricing the milk of producers in accordance with its use, auditing of handlers' utilization of milk, and checking weights and tests by an impartial agency under an order will aid in establishing and maintaining the orderly marketing of milk and its products in the Knoxville market.

(c) From the evidence it is concluded that the proposed marketing agreement and order which are hereinafter set forth, and all the terms and provisions thereof, meet the needs of the Knoxville market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the various provisions of the marketing agreement and order.

(1) *Extent of the marketing area.* The marketing area should be defined to include all of the territory within the corporate limits of the City of Knoxville, Tennessee. Both producers and handlers proposed that the marketing area also include the territory within Knox County and handlers further proposed the inclusion of a number of towns and cities in neighboring counties in which Knoxville handlers dispose of considerable quantities of bottled milk. Distributors in the areas outside of Knoxville, proposed for inclusion in the marketing area, and producers contend that the health requirements and administration thereof in these areas are different from those of Knoxville. Proponents for the inclusion of such areas failed to refute this contention.

Handlers argue that without inclusion of the areas outside of the City of Knoxville, which were contained in their proposal, they would be forced to operate at a competitive disadvantage with other distributors in such areas who would not be regulated as to minimum paying prices for milk. The record refutes such an argument in that it is shown that distributors in the principal surrounding local fluid markets competing with Knoxville handlers have been paying at least the Knoxville price for Grade "A" milk. Furthermore, the record shows that prices paid to farmers for milk in all of such surrounding local fluid markets are influenced by prices paid by Knoxville handlers for milk for fluid uses. It must be concluded that those distributors are forced to meet Knoxville paying prices in order to retain their shippers and hence could not have a competitive advantage over Knoxville handlers because of lower paying prices.

(2) *Definitions.* The term "producer" should be defined as any person, except a producer-handler, who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, whose milk conforms to the appropriate health standards for milk for fluid consumption and is received at a fluid milk plant, or is diverted by a handler to a nonfluid milk plant. All dairy farmers producing milk for fluid consumption in the proposed marketing area must have passed a farm inspection and hold a permit issued by the appropriate health authority before such milk may be received in a fluid milk plant. The record shows that a permit, once issued, is required to be revoked if a producer goes off-grade on bacteria count, temperature, violation of the sanitation requirements, or building requirements and fails to come back on-grade within a thirty day period. As long as a dairy farmer holds a permit he is an approved shipper for the Knoxville market and should be considered as a producer. Milk of a producer-handler is excluded from the definition since it is proposed that such milk be considered as other source milk.

The term "handler" should be defined to include a producer-handler and any person operating a fluid milk plant who receives producer milk at such plant or who diverts producer milk to any other milk distributing or milk manufacturing plant for his account. The term should be sufficiently broad to include any cooperative association of producers which might divert producer milk for the account of such association. A definition of "handler" is necessary in order to specify what type of processors and distributors are to be subject to regulation. Only operators of plants approved by the appropriate health authorities may process and distribute milk for fluid consumption in the marketing area or receive and cool milk for shipment to a plant which processes and distributes milk for fluid consumption in the marketing area. The definition is limited to producer-handlers and to those approved plant operators who receive producer milk and is not intended to include such person in his capacity as operator of a nonfluid milk plant. A cooperative association of producers is included, though it might not operate a fluid milk plant, so that in the event any handler receives producer milk in excess of his fluid requirements the association may divert such excess milk to another plant where it may be used in a higher use classification than in which the first handler might otherwise utilize it, or in the event no use can be found for such milk in the Knoxville market the association may divert such milk to other outlets. This will promote the efficient utilization of producer milk.

The term "producer-handler" should be defined as any person who produces milk under a dairy farm inspection permit issued by the appropriate health au-

thority in the marketing area and who processes milk from his own production, distributing all or a portion of such milk within the marketing area as Class I milk, but who receives no milk from producers. Since it is proposed that milk of producer-handlers be considered as other source milk and a producer-handler is exempted from specified provisions of the order, it is necessary that the term be defined for facility in drafting the various provisions. It is proposed that a producer-handler be exempted from the pricing and payment provision and from payment of the administrative assessment as long as he buys no producer milk. Producer-handlers should be allowed to transfer milk among themselves without affecting their status as producer-handlers.

The term "fluid milk plant" should include: The premises and the portions of the building and facilities approved by the appropriate health authority in the marketing area and used for (1) the receipt and processing or packaging of producer milk, all or a portion of which is disposed of from such plant on wholesale or retail routes within the delivery period as Class I milk in the marketing area or (2) the receipt and cooling of producer milk for shipment to a plant described in (1) above. A definition of a fluid milk plant is included to further define the type of processor and distributor to be subject to regulation and to clarify the language of the producer and handler definitions and the language of other provisions of the order in which the term fluid milk plant is used. Since any receiving station or plant receiving and processing, or packaging milk for fluid consumption in the marketing area must be inspected and approved by the appropriate health authorities, the definition is limited to that portion of a plant which is used to receive and process, or package producer milk for fluid consumption in the marketing area: *Provided,* That in the case of an approved and unapproved plant operated under one management the physical set-up of each plant and the books and records thereof are such that the market administrator can satisfactorily account for the total receipts and utilization of milk in each plant. Considerable discussion was had on the record with respect to the inclusion of a receiving station in the definition of a fluid milk plant. The operator of a plant which first receives producer milk should be held responsible for payment for such milk. Hence, a receiving station is included under the definition. Any milk manufacturing and processing or bottling plant not qualified under such a definition is concluded to be a "nonfluid milk plant."

The term "other source milk" should be defined to include all skim milk and butterfat received in any form from a producer-handler or from a source other than producers or other handlers, except any nonfluid milk product received and disposed of in the same form. The term is defined for facility in drafting the subsequent provisions of the order. While milk produced by a producer-handler meets all the requirements of regular producer milk, such milk is not available for regular purchases by handlers. Producer-handlers normally dispose of their milk during most of the year in Class I products. Under these conditions, the pooling of any surplus milk purchased from producer-handlers would result in higher prices to producer-handlers than to regular producers, since producer-handlers' Class I milk is not pooled with producer milk. It is concluded, therefore, that such receipts from producer-handlers should be treated as other source milk. Nonfluid milk products received and disposed of in the same form are not included as other source milk. Inclusion of such products as other source milk would only add to the work of the market administrator and handlers in the reporting and classification of such nonfluid milk products and would not change the classification of any producer receipts.

The term "delivery period" should be defined as a calendar month, or the portion thereof during which this order is in effect. The term is defined for facility in drafting the subsequent provisions of the order. Producers proposed that a month be broken into two delivery periods to correspond with the current practice in the market of paying producers for milk. It is concluded that adoption of such a proposal would result in an excessive expense of administration and that a twice-a-month payment can be accomplished through an advance payment on or before the last day of each delivery period and a final payment by the 15th of the succeeding delivery period.

The terms "act," "person," "Secretary," "Department of Agriculture," "cooperative associations," and "producer milk" should be defined to shorten the language in the subsequent sections of the order. These terms are common to Federal milk marketing orders issued pursuant to the act. No controversy developed at the hearing regarding the definitions of these terms.

(3) *Classification of milk.* The classification of milk should be as follows: Class I milk should include all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, and flavored milk drinks, cream and any cream product, except ice cream mix, and all skim milk and butterfat not specifically accounted for as Class II milk. Class II milk should include all skim milk and butterfat used to produce any item other than those specified in Class I milk, inventory variations, disposed of for animal feed, actual plant shrinkage of skim milk and butterfat received in producer milk (but not in excess of 2.5 percent of such receipts of skim milk and butterfat, respectively) and actual plant shinkage of skim milk and butterfat, respectively, in other source milk received.

While both producers and handlers proposed that skim milk and butterfat disposed of in fluid milk be classified as Class I, handlers contend that skim milk and butterfat contained in skim milk, buttermilk, flavored milk, flavored milk drinks, cream, and cream products should be classified in a separate class priced somewhat below fluid milk. The record shows that all of these items sold in the marketing area must be made from approved Grade "A" skim milk and butterfat. They are all disposed of in fluid form through the same retail and wholesale channels as bottled fluid milk. Their physical characteristics, purposes, values, and uses are more nearly similar to those of fluid milk than to the products to be classified as Class II milk. Furthermore, in the pricing of producer milk used in these products recognition is given to the amount of butterfat in these products by pricing the skim milk and butterfat separately. The present supply of producer milk is inadequate to meet the minimum requirements for Grade A milk in the marketing area. Classification of any of these items in a lower use class would not be in the public interest in that this would necessitate a higher minimum price for the items in Class I in order to return a blend price to producers which is needed to insure a sufficient quantity of pure and wholesome milk for the market.

Handlers proposed a third classification for skim milk and butterfat used to produce products other than those specified in Class I milk with the additional proposal that any skim milk or butterfat used to produce butter and animal feed, and allowable plant shrinkage of skim milk and butterfat, respectively, in producer milk, and plant shrinkage of skim milk and butterfat, respectively, in other source milk would be classified as Class IV milk. The Knoxville market is a deficit market in that the quantity of producer milk is insufficient to meet the demand for Grade A milk and the record fails to contain any justification for the classification of Grade A producer milk in a class lower than the condensed milk and cheese class which competes with ungraded milk sold to nearby manufacturing plants. All milk other than that used for fluid purposes (Class I milk) should be priced at least at the price received by dairy farmers for milk delivered to condenseries in Tennessee and surrounding states for manufacturing purposes with which Class II milk is in direct competition.

Producers proposed to limit shrinkage allowed in producer milk in the lowest use class to 1 percent. Handlers contend that the plant shrinkage allowance on producer milk should be 3 percent. While there was no quantitative evidence offered to support their claim for a 3 percent shrinkage allowance, one handler testified that a 2 percent shrinkage loss would be a very efficient operation and that he personally had experienced months when his shrinkage losses were as much as 3 percent and higher. A review of the shrinkage allowance in other Federal orders indicates a 2 percent allowance to be most general. It is concluded that the shrinkage allowance on producer milk at this time should be limited to 2.5 percent of receipts of skim milk and butterfat, respectively, from producers. No limit is proposed for the shrinkage on other source milk since such milk is deducted from the lowest available use classification in the allocation provisions.

When producer milk and other source milk are utilized in the same plant it is not administratively feasible to segregate the actual plant shrinkage on producer milk. Consequently, when producer milk

is utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and to other source milk should be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources, to their totals.

The handlers' proposal to classify shrinkage on producer milk in excess of allowable shrinkage on a pro rata basis between the various classes of utilization in proportion to the actual utilization by a handler in such classes should not be adopted for the reason that such a method of classifying excess shrinkage would not provide the safeguards necessary to a classification plan.

In establishing the classification of milk the responsibility should be placed upon the handler, who first receives milk from producers, to account for all skim milk and butterfat received at a fluid milk plant and to prove to the market administrator that such skim milk and butterfat should not be classified as Class I milk. Any skim milk or butterfat so classified in one class may be reclassified if used or reused by such handler, or another handler, in another class.

The only practical means of administering the regulation and assigning responsibility for correct classification is to consider all skim milk and butterfat as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that it should be classified otherwise. The handler who first receives milk from producers is responsible for reporting the utilization of the milk he receives from producers and for making full payment for it. He must, therefore, maintain the records necessary to prove the utilization reported to the market administrator.

In fluid milk markets producer milk is often stored in some form for later use in a class other than that in which it was originally classified. The interest of both producers and handlers will be protected by requiring adjustments in payments made for such milk in accordance with its ultimate use by such handler or another handler. This principle requires that the market administrator reclassify milk and milk products whenever there is insufficient milk in the class in which it was originally classified to contain the use claimed by the handler.

(4) *Transfers.* Provisions should be included in the order covering the classification of skim milk and butterfat which is transferred from a fluid milk plant to another fluid milk plant or a nonfluid milk plant.

In the case of transfers to a fluid milk plant, provision should be made for the classification of such milk on the basis of signed statements covering the agreed utilization of such milk if the buyer actually has used an equivalent amount of skim milk and butterfat, respectively, in the class indicated in such statement: *And provided,* That in the event either or both handlers have received other source milk, such milk shall be so classified in both plants as to return the higher utilization to producer milk. This is necessary for the protection and proper classification of producer milk, and is in accord with the method of allocating producer milk proposed under the allocation provisions.

Skim milk and butterfat transferred to a producer-handler in the form of milk, skim milk, or cream should be classified as Class I milk. Producer-handlers ordinarily carry on only fluid operations; hence any milk which they might purchase from a handler normally would be for Class I use. Under such circumstances it is not necessary to provide for the classification of such a transfer in a lower class use.

Skim milk and butterfat transferred to a nonfluid milk plant other than that of a producer-handler should be classified as Class I milk when transferred in the form of milk, skim milk, or cream, unless the handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both the handler and the buyer, the buyer maintains books and records showing utilization of skim milk and butterfat in his plant which are made available to the market administrator, if requested, and not less than an equivalent amount of skim milk and butterfat, respectively, is actually used in such plant in the use indicated: *Provided,* That if upon inspection of the buyer's records it is found that an equivalent amount of skim milk and butterfat was not used in such indicated use the remaining pounds shall be classified in Class I.

Provision for transfers of milk to nonfluid milk plants is necessary because facilities may not be available among regulated handlers to dispose of all producer milk at all times. In order to provide appropriate classification and pricing of producer milk when it is necessary to transfer such milk to nonfluid milk plants, provision is made so that such transfers may be classified as Class II milk but only when a Class II utilization is claimed in writing to the market administrator by both the handler and the transferee, and such claim is substantiated by records in the transferee's plant showing equivalent utilization in such class.

Handlers proposed that 10 days be allowed after the close of the delivery period for the statement of use from the handler and the transferee in case of transfers. Since such a statement is needed by the market administrator in determining the classification of producer milk prior to the announcement of uniform prices, which announcement is to be made on or before the 10th day after the close of the delivery period, such proposal is impractical.

(5) *Allocation of skim milk and butterfat classified.* The allocation provisions should be so established as to protect producers by assuring classification of producer skim milk and butterfat in the highest available use class.

The record shows that, while the health department does not require the use of local producer milk, handlers in the market definitely prefer local milk in preference to importing approved supplies. The record further shows that other source milk has been received by handlers in the market during the same period that there was a claimed surplus of producer milk in excess of Class I needs. Under these circumstances it is essential to assure the appropriate classification of producer milk by requiring the subtraction of other source milk from the lowest available use class in determining the allocated use of producer milk.

Handlers proposed that whenever a handler's receipts of producer milk are less than 105 percent of his needs for fluid purposes and for cottage cheese the utilization of other source milk in excess of such handler's actual utilization for other than fluid purposes and cottage cheese be prorated between their proposed Class I and Class II (fluid milk, milk drinks, and cream). Since it is concluded that only two classes of utilization are needed such a proposal is not appropriate. Even if two classes of utilization were established for skim milk and butterfat used for fluid purposes such a 105 percent rule should not apply to cottage cheese. The record shows that cottage cheese is not required by the health department to be made from Grade A milk. While handlers argue that cottage cheese is considered an essential part of their fluid milk business its inclusion in such a 105 percent rule would not protect the interests of Knoxville producers.

(6) *Class prices.* (i) Class prices should be based on prices paid for milk used for manufacturing purposes.

Prices paid for milk used for fluid purposes are closely related to prices paid for milk for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect many of the changes in general economic conditions affecting the supply of and demand for milk. For these reasons fluid milk markets have long used butter, powder, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get such milk produced.

It is concluded that the basic formula price to be used in establishing the Class I price for milk of 4.0 percent butterfat content should be the highest of the following: the paying prices of 10 southern condenseries and manufacturing plants; a formula price based upon the open market prices of butter and nonfat dry milk solids; a formula price based upon the open market prices of butter and cheese; or the "paying" prices of 18 condenseries, located in Wisconsin and Michigan for milk of 3.5 percent butterfat content adjusted by a butterfat differential.

Pricing of producer milk on a 4.0 percent butterfat basis follows the custom of the market and is consistent with the proposal of both producers and handlers.

Basic formula prices similar to those proposed herein (except the paying price of 10 local condenseries and manufacturing plants) are contained in the Federal milk order issued pursuant to the act for the Chicago marketing area. The record shows that substantial quantities of Grade A milk (principally condensed

skim milk, skim milk powder, and cream) are imported from the Chicago milkshed to supplement local producer milk. These importations are commingled with producer milk and sold in bottled form in competition with producer milk. It is concluded that the basic formula prices should reflect manufacturing values which influence the price paid by Knoxville handlers for imported Grade A supplies. Handlers object to the use of the paying prices of the 18 condenseries in the basic formula price, contending that the paying prices of local condenseries more nearly reflect manufacturing values for local producer milk. The 18 condenseries are included for previously stated reasons and because their inclusion will provide a broader base to reflect an additional manufacturing value. The Class II price (paying price of local condenseries and manufacturing plants) is included as an alternative formula since local manufacturing plants offer an alternative outlet for the milk of producers supplying the Knoxville market.

The handlers offered testimony in favor of the averaging of the formulas for the preceding delivery period as a method of computing the basic price for the current delivery period. The record does not indicate that the averaging of the formulas would give proper weight to the price of each manufacturing product included in the formulas. Furthermore, the averaging of the formulas does not give due recognition to the fact that milk produced for manufacturing purposes may be shifted readily from one outlet to another depending upon the relative price prevailing for such outlets. The formula prices for the preceding delivery period should not be used in the Knoxville market since such a procedure would have the effect of lagging seasonal changes in prices to producers and handlers.

(ii) In order to reflect the additional costs in the production and transportation of Grade A quality milk and to provide the necessary incentive for the production of a sufficient quantity of pure and wholesome milk for the marketing area, the price of Class I milk must be established at a higher level than the price of milk for manufacturing outlets. This should be accomplished by adding fixed seasonal differentials to the basic formula price for Class I milk.

The consumption of milk in the Knoxville marketing area is at a relatively high level. General economic conditions and business activity in Knoxville indicate a continued good demand for milk and milk products. The level of production of Grade A producer milk has been insufficient to meet the needs of Class I milk in the Knoxville market. It has been necessary for handlers to supplement their supplies of producer milk with substantial quantities of Grade A supplies from outside areas, chiefly Wisconsin, for Class I use.

The costs of labor, supplies, and materials incurred by Knoxville producers in the production of milk have continued their upward trend. The costs of feeds which reached an all time high in early 1948 have receded somewhat and prospects are for more plentiful and somewhat lower priced feeds during 1949. Farmers producing milk for fluid purposes must use feed, labor, supplies, and materials more extensively to maintain production at a more uniform level than is required of farmers producing milk for manufacturing purposes. Consequently, any increases in the costs of these items affect fluid milk producers more than dairy farmers supplying manufacturing plants. In addition, a substantial investment is required to provide facilities to meet the requirements for the production of fluid milk for the Knoxville market. The day-to-day expenses of maintaining such equipment, cooling and caring for milk, and sterilizing and caring for equipment are substantially greater than those required for milk for manufacturing purposes.

It is concluded that in order to reflect the additional costs in the production of Grade A milk and to provide the necessary incentive for the production of a sufficient supply of Grade A milk for the marketing area in all months of the year the seasonal differentials to be added to the basic formula price for Class I milk should be $1.30, $1.10, and $1.50 per hundredweight, respectively, for the delivery periods of December through March, April through July, and August through November.

It is estimated that the proposed basic formula plus the specified differentials would have resulted in an average price for milk for fluid uses, during the 12-month period ending May 31, 1948, approximately 20 cents higher than the average of the prices actually paid for such milk during this period.

The record shows that historically there has been a substantial shortage of producer milk in the market during the short production season. Imports of other source milk are regularly received by Knoxville handlers from outside of the state for fluid uses. These importations are greatest during the fall and winter season. In view of the shortage of producer milk which has existed during the fall period and the necessity for encouraging an increase in fall production of Grade A milk locally, it is believed that assurance of a minimum price below which the price of milk to Knoxville producers cannot go is needed to provide the necessary incentive to such producers to undergo the additional expense for the care and feeding of spring freshened cows through the fall and winter months and to add fall freshened cows to their herds. Furthermore, producers in the Knoxville market have been accustomed to knowing well in advance the price that they will receive for milk to be delivered in subsequent months. The proposed formula method of pricing milk on a classified basis represents a rather drastic departure from the custom in the market of a known flat price for all milk. In view of these considerations, it is concluded that a floor price for Class I milk of $5.40 should be established during the months of August through November 1949. In view of the program of the Department of Agriculture to support the price of milk and butterfat through the purchase of butter and nonfat dry milk solids, the average price resulting from the basic formula plus the proposed differential is not expected to be materially lower than the floor proposed. To the extent that the proposed formula price is lower than the floor price, if at all, the need for assurance to producers of a stated minimum price this fall is apparent in the general shortages which characterize this market and which become particularly acute in the fall season.

Handlers proposed that, unless the marketing area be defined to include all of the area covered by their proposal, a special price be established for Class I milk disposed of in any part of such area not included. The record shows that the Knoxville market is so short of producer milk that the importation of substantial quantities of approved milk is necessary to meet fluid milk requirements in the marketing area. For this reason and for reasons previously stated in the discussion of the marketing area it is concluded that such a proposal should not be adopted.

Certain handler interests further proposed that during the flush periods of production handlers be allowed a transportation charge of $0.70 per hundredweight on all milk disposed of in bulk for Class I use to other fluid markets. They argue that such an allowance would enable the handler to profitably move milk to other markets and producers would receive a higher blend price than if such milk were disposed of locally for Class II use. When Knoxville handlers require supplies of Grade A milk in excess of producer receipts such supplies are secured from the Chicago area and the cost is in excess of the proposed Knoxville paying price. It must be presumed that such supplies are obtained from the Chicago area because approved Grade A supplies cannot be obtained from a closer source. Under these circumstances it is concluded that the distributors in the markets where Knoxville handlers might dispose of any excess milk for fluid purposes would be interested in procuring Knoxville milk in preference to milk from Chicago because of the lower costs incurred.

(iii) The price for Class II milk should be the average paying price of 10 surrounding condenseries and manufacturing plants for milk used for manufacturing purposes. The items included in Class II are not required to be made from graded milk. Hence, any producer milk going into these items must compete with ungraded milk. Notwithstanding, it is generally true that manufacturers prefer Grade A milk over ungraded milk in the manufacture of certain products, particularly ice cream, even though the health department does not require its use. While certain handler interests proposed, and producers concurred in the proposal, that a handling charge be allowed handlers for producer milk moving more than 40 miles to manufacturing plants, the mere agreement between handlers and producers does not constitute the type of evidence upon which a proposal can be accepted. There was no showing that any producer milk in excess of Class I requirements could not be disposed of locally for use in the manufacture of ice cream and other manufactured products. Further, there was no showing that such milk surplus to Class I needs in the market and dis-

posed of to manufacturing plants either within or without the 40-mile limit could not be diverted direct from the farm to the manufacturing plant without first having been received at a fluid milk plant..

Statistics are not available in the files of the Department of Agriculture from which the purchasing power of milk during the base period, August 1909–July 1914 may be determined. However, the purchasing power of milk can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919–July 1929.

During the 12-month period ending May 31, 1948, the parity price for milk of 4.0 percent butterfat content averaged $4.76, calculated on the basis of the purchasing power of milk for the period August 1919–July 1929. The parity price for 4.0 percent milk in May 1948 was $4.92. To the extent that the recommended class prices will result in blend prices different from such parity level, they are fully justified on the basis of evidence concerning the price and supplies of feeds and other economic conditions affecting marketing supplies of and demand for milk and to such extent the parity level is not reasonable.

(iv) The proposal that the price computed for each class on the basis of milk containing 4.0 percent butterfat be adjusted to reflect the weighted average butterfat content of the several products classified in the respective classes should be adopted. Such differential for Class II milk should be on the basis of the value of 92-score butter in the Chicago market plus 20 percent. This differential is in line with the general level of manufacturing values. With regard to Class I milk, such differential should be on the basis of the value of 92-score butter in the Chicago market plus 40 percent which pricing reflects the higher-valued use of butterfat in Class I milk.

Handlers proposed that the value of skim milk and butterfat in Class I milk be an arbitrary percentage of the Class I price. In support of this proposal they stated that it was the same method used in the order regulating the handling of milk in the Cleveland, Ohio, marketing area. There was no showing that there was any similarity between the Cleveland, Ohio, and Knoxville, Tennessee, markets with respect to the pricing of butterfat which can be freely imported in the Knoxville market.

(7) *Payments to producers.* Provision should be made for a market-wide type of pool in order that all producers delivering milk to all handlers may receive a uniform price for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered. This method of paying producers will require a producer-settlement fund for making adjustments in payments, as among handlers, to the end that the total sum paid by each handler shall equal the value of milk received by him and utilized in the several classes as determined by the prices fixed in the proposed marketing agreement and order. There was no opposition to a market-wide pool method of payment. Handlers proposed that a take-off and pay-back plan be incorporated in the payment provisions as a means of more effectively encouraging greater fall production. The success of such a plan is largely dependent upon producer acceptance Since the record shows the lack of necessary producer support it is concluded that a take-out and pay-back plan should not be included in the payment provisions at this time.

In the computation of the value of producer milk, provision should be made for the inclusions in such value of the value of milk classified in excess of reported receipts from producers, handlers, and other sources. This provision is common to orders issued pursuant to the act and is necessary to cover discrepancies between the reported and actual weights and tests of milk received from producers.

Although the uniform price is computed only once a month provision should be made to pay producers semi-monthly. Producers have customarily been paid twice a month and it is concluded this practice should be continued. While producers proposed that the order be written to provide two delivery periods each month, and hence two pay periods each month following the customary practice in the market, they joined the handlers in proposing an advance payment covering the first 15 days of the delivery period, to be made on or before the last day of the delivery period, in the event it was deemed impractical to compute two separate pools each month. This mid-delivery period payment should not be at a fixed price, or the rate of the uniform price for the preceding delivery period, since these rates might require a handler to overpay a producer. Such payment at the rate of 75 percent of the uniform price for the preceding delivery period will avoid such overpayments. The final payment for each delivery period should be made on or before the 15th day after the end of the delivery period. Producers proposed that the final payment be made on the 12th day after the end of the delivery period. Handlers argue that their proposal for a final payment on the 15th of the month was made after due consideration of the experience of handlers under the Nashville order, which experience indicates the 15th as the earliest date for final payment.

The Knoxville Milk Producers Association has indicated that it is presently receiving payments from handlers for milk delivered by its members and is in turn making payments to its members for milk so delivered. The Association proposes that this arrangement be continued. In order that the Association may pay its members on the same day that nonmembers receive payment for their milk it is necessary that it receive payment from handlers prior to the date of payment to nonmembers. It is concluded that the advance payment to the Association should be made on or before the 2nd day before the end of the delivery period and the final payment made on or before the 13th day after the end of the delivery period. All dates covering reports of handlers, computation and announcement of uniform price, and payments to and out of the producer-settlement fund have been established to enable such payments. Since a handler will need write only one check each pay period covering the payment for milk of all of the Association members there should be no hardship in making such payments in advance of payment to nonmembers. In order that there may be no doubt as to the authority for this method of payment under the order it should be specified that payments may be made to a cooperative association authorized to receive payments on behalf of individual producers.

All payments made directly to producers or an association of producers, or through the producer-settlement fund should be adjusted for errors made in such payments for preceding delivery periods. The adjustment of errors in making payments should not be limited to 180 days from the date of any such error as suggested by handlers. Such a limitation is impractical in that it would not allow sufficient time for auditing records and the settlement of disputed accounts.

The market administrator in making payments to any handler from the producer-settlement fund should offset such payments by the amount of payments due from such handler. Without this provision, the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing fraudulent reports or who owes money to the producer-settlement fund but who is financially unable to make full payment of all of his debts.

(8) *Administrative assessment.* Each handler should be required to pay to the market administrator, as such handler's pro rata share of the expenses necessarily incurred by the market administrator, 4 cents per hundredweight, or such lesser sum as may be prescribed by the Secretary, on all skim milk and butterfat received by a handler in a fluid milk plant. Each cooperative association should pay such pro rata share of expense on only that milk of producers for which it is a handler.

The market administrator is required to verify the disposition of all milk received whether producer milk or other source milk, and other source milk should bear its pro rata share of the administrative cost. Substantial quantities of approved skim milk and butterfat are received by handlers in the market from out-of-state sources and such a charge will apportion the expense of administration more equitably between handlers. In cases where the receipts of other source milk are in the form of concentrated products the assessment should be on the basis of the milk used to produce such products. Both handlers and producers recognize that the market administrator should have the necessary funds to enable him to administer properly the terms of the order. Producers proposed a 4-cent rate of assessment and further proposed that such maximum rate of assessment be lowered to 3 cents after a 6-month period, contending that initial expenses of the order would require a higher initial assessment. At the same

time handlers contend that a maximum assessment of 2 cents per hundredweight should be sufficient. In view of the volume of skim milk and butterfat on which such rate of assessment would apply, a maximum rate of 4 cents per hundredweight should be adopted in order to guarantee sufficient funds for the proper and efficient administration of the order. In the event a lesser amount proves to be sufficient for such administration, provision is made to enable the Secretary to reduce the assessment accordingly.

Handlers proposed that the accounts of the market administrator be audited annually by a licensed auditing firm in the State of Tennessee. Since the United States Department of Agriculture maintains a staff of auditors for such purposes and since adoption of such a proposal would increase the cost of administering the order it is concluded that such a provision is not warranted.

(9) *Deductions for marketing services.* Provision should be made for the dissemination of market information to producers and for the verification of weights, sampling and testing of milk received from producers for whom such services are not being rendered by a cooperative association qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act." The deduction for these services from payments to producers should be at the rate of 6 cents per hundredweight, or such lesser rate as may be determined by the Secretary. Handlers contend that a maximum of 3 cents per hundredweight should provide sufficient funds to finance such services for producers who are not members of an association. They argue that the small number of handlers in the market should tend to reduce the cost of such services. Both handlers and producers agree that the market administrator should not be restricted in performing such services because of a lack of sufficient funds. It is concluded that the deduction for marketing services should be set at a maximum of 6 cents per hundredweight. Handlers should not be required to make the deductions on their own farm production. If it should develop that the cost of such services is less than 6 cents per hundredweight, provision is made for a smaller deduction. In the event any qualified cooperative association of producers is determined to be performing such services for its members, handlers should be required to pay to the cooperative association such deductions as are authorized by the members of the association.

(10) *Administrative provisions.* The marketing agreement and order should provide for other general administrative provisions which are common to all orders and which are necessary for proper and efficient administration of the order. These provisions provide for the selection of a market administrator, define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making computations required by the order, and provide a plan for liquidation of the order in the event of its suspension or termination.

All objections raised by either the handlers or producers with regard to these provisions dealt with the language thereof, and they have been worded in the proposed marketing agreement and order so as to eliminate such objections.

Additional findings. (a) It is hereby found and proclaimed in connection with the issuance of this decision regarding the proposed marketing agreement and the proposed order regulating the handling of milk in the Knoxville, Tennessee, marketing area, that the purchasing power of such milk during the prewar period August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1919–July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture, and the period August 1919–July 1929 is the base period to be used in connection with the said marketing agreement and said order in determining the purchasing power of such milk.

(b) The proposed marketing order will regulate the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial or commercial activity specified in the proposed marketing agreement upon which the hearing was held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Knoxville, Tennessee, Marketing Area" and "Order Regulating the Handling of Milk in the Knoxville, Tennessee, Marketing Area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order, which will be published with the decision.

This decision filed at Washington, D. C., this 23d day of June 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Regulating the Handling of Milk in the Knoxville, Tennessee, Marketing Area

§ 988.0 *Findings and determinations—* (a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Cum. Supps. 900.1 et seq.), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Knoxville, Tennessee, marketing area. Upon the basis of evidence introduced at such hearings and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect the market supply of and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) *Additional findings.* (1) It is hereby found and proclaimed in connection with the execution of a tentative marketing agreement and the issuance of this order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the prewar period of August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1919–July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture, and the period August 1919–July 1929 is the base period to be used in connection with the said marketing agreement and this order in determining purchasing power of such milk.

(2) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by (i) each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (*a*) milk from producers (including such handler's own production), and (*b*) other source milk received at a fluid milk plant, and (ii) each cooperative association as its pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe on only that milk of producers for which it is a handler.

Order relative to handling. It is hereby ordered, that on and after the effective

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

date hereof, the handling of milk in the Knoxville, Tennessee, marketing area shall be in conformity to and in compliance with the following terms and conditions:

§ 988.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Knoxville, Tennessee, marketing area" hereinafter called the "marketing area" means all the territory within the corporate limits of the City of Knoxville, Tennessee.

(f) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

(g) "Producer-handler" means any person who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area and who processes milk from his own production, distributing all or a portion of such milk within the marketing area as Class I milk, but who receives no milk from producers.

(h) "Delivery period" means a calendar month, or the portion thereof during which this order is in effect.

(i) "Fluid milk plant" means the premises and the portions of the building and facilities, approved by the appropriate health authority in the marketing area, which are used in: (1) The receipt and processing or packaging of producer milk, all, or a portion, of which is disposed of from such plant on wholesale or retail routes within the delivery period as Class I milk in the marketing area or (2) the receipt and cooling of producer milk for shipment to a plant described in subparagraph (1) of this paragraph: *Provided,* That any portion of such building or facilities, used for receiving or processing milk or any milk product, required by the appropriate health authority in the marketing area to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area shall not be included.

(j) "Producer" means any person, except a producer-handler, who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, and whose milk conforms to the appropriate health standards for milk for fluid consumption, which milk is: (1) Received at a fluid milk plant, or (2) diverted from a fluid milk plant to any milk distributing or milk manufacturing plant: *Provided,* That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

(k) "Handler" means (1) any person in his capacity as operator of a fluid milk plant, (2) a producer-handler, or (3) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to a nonfluid milk plant for the account of such association.

(l) "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant described in paragraph (i) of this section.

(m) "Other source milk" means all skim milk and butterfat received in any form from a producer-handler or from a source other than producers or other handlers except any nonfluid milk product received and disposed of in the same form.

(n) "Producer milk" means milk produced by one or more producers.

§ 988.2 *Market administrator* — (a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 988.9: (i) The cost of his bond and of the bonds of his employees, (ii) his own compensation, and (iii) all other expenses, except those incurred under § 988.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made (i) reports pursuant to § 988.3 (a), or (ii) payments pursuant to § 988.8;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(8) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this marketing order;

(9) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(10) Publicly announce and notify each handler in writing the prices and butterfat differentials determined for each delivery period as follows: (i) On or before the 6th day after the end of such delivery period the prices and butterfat differentials for each class computed pursuant to § 988.5; and (ii) on or before the 10th day after the end of such delivery period, the uniform price computed pursuant to § 988.7 (b), and the butterfat differentials to be paid pursuant to § 988.8 (f).

§ 988.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 6th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in (i) all receipts at his fluid milk plant(s) within such delivery period of (*a*) producer milk, (*b*) skim milk and butterfat in any form from other handlers, and (*c*) other source milk; and (ii) milk diverted pursuant to § 988.1 (j) (2); and

(2) The utilization of all skim milk and butterfat required to be reported under subparagraph (1) of this paragraph.

(b) *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request:

(1) On or before the 20th day after the end of each delivery period, if requested by the market administrator, his producer pay roll for such delivery period which shall show: (i) The total pounds of milk received from each producer or

cooperative association, with the average butterfat test thereof, and (ii) the net amount of such handler's payment to each producer or cooperative association, together with the price, deductions, and charges involved.

(2) On or before the first day other source milk is received, his intention to receive such milk and on or before the last day such milk is received, his intention to discontinue such receipts.

(c) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (1) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat content all milk and milk products handled; (3) verify payments to producers; and (4) make such examinations of operations, equipment, and facilities, as are necessary and essential to the proper administration of this order or any amendments thereto.

§ 988.4 *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat contained in (i) receipts at a fluid milk plant(s), within such delivery period, of (*a*) producer milk, (*b*) skim milk and butterfat in any form from other handlers, and (*c*) other source milk, and (ii) milk diverted pursuant to § 988.1 (j) (2) shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c), (d), (e), and (f) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream and any cream product, except ice cream mix and (ii) not specifically accounted for as Class II milk.

(2) Class II milk shall be all skim milk and butterfat: (i) Used to produce any item other than those specified in subparagraph (1) of this paragraph; (ii) in inventory variation; (iii) disposed of for livestock feed; (iv) in actual plant shrinkage of skim milk and butterfat received in producer milk, but not in excess of 2.5 percent of such receipts of skim milk and butterfat, respectively, and (v) in actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received: *Provided,* That if producer milk and other source milk are both received in a fluid milk plant during the same delivery period the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and other source milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be classified as Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified in Class II.

(2) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(d) *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a fluid milk plant of another handler (except a producer-handler), unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred, but in no event shall the amount classified in any class exceed the total use in such class by the transferee-handler: *Provided,* That if either or both handlers have received other source milk, such milk so disposed of shall be classified at both plants so as to return the higher class utilization to producer milk.

(2) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a producer-handler.

(3) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a nonfluid milk plant, except that of a producer-handler, unless (i) the handler claims Class II on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the nonfluid milk plant and the handler on or before the 6th day after the end of the delivery period within which such transfer occurred, (ii) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (iii) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified as Class I.

(e) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds in such class allocated to producer milk received by such handler:

(i) Subtract the shrinkage of skim milk, computed pursuant to paragraph (b) (2) (iv) of this section, from the total pounds of skim milk in Class II milk;

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk;

(iii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other handlers and assigned to such class pursuant to paragraph (d) (1) of this section;

(iv) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subdivision (i) of this subparagraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class, in series beginning with Class II.

(2) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in subparagraph (1) of this paragraph.

(3) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to subparagraphs (1) and (2) of this paragraph, and determine the percentage of butterfat in each class.

§ 988.5 *Minimum prices*—(a) *Basic formula price.* The basic formula price per hundredweight (computed to the nearest tenth of a cent) to be used in determining the price for Class I milk pursuant to paragraph (b) of this section shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to subparagraph (1), (2), or (3) of this paragraph, or paragraph (b) (2) of this section.

(1) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies listed below:

Company and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Cooperville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the butterfat differential computed pursuant to § 988.8 (f) by 5.

(2) The price per hundredweight computed as follows:

(i) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on such Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.

(3) The price per hundredweight computed as follows: Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 20 percent thereof, and add to such sum 3¾ cents for each full ½ cent that the arithmetical average of carlot prices per pound of nonfat dry milk solids (not including that specifically designated animal feed), spray and roller process, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period, is above 5 cents: *Provided,* That if such f. o. b. manufacturing plant prices of nonfat dry milk solids are not reported there shall be used for the purpose of such computation the arithmetical average of the carlot prices of nonfat dry milk solids delivered at Chicago, Illinois, as reported by the Department of Agriculture during the delivery period; and in the latter event the "5 cents" shall be increased by 1 cent.

(b) *Class prices.* Subject to the provisions of paragraph (c) of this section, each handler shall pay producers, at the time and in the manner set forth in § 988.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk and Class II milk computed pursuant to § 988.4 (f):

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: $1.30 for the delivery periods of December through March; $1.10 for the delivery periods of April through July; and $1.50 for the delivery periods of August through November: *Provided,* That for the delivery periods of August through November 1949 the price for Class I milk shall not be less than $5.40 per hundredweight.

(2) *Class II milk.* The price for Class II milk shall be the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies indicated below:

Company and Location

Pet Milk Co., Mayfield, Ky.
Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greenville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N. C.
Carnation Co., Galax, Va.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S. C.
Scott Cheese Co., Sweetwater, Tenn.

(c) *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 988.4 (f), is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest 10th of a cent), calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.4 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(2) *Class II milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 988.6 *Application of provisions*—(a) *Producer-handlers.* Sections 988.4, 988.5, 988.7, 988.8, 988.9, and 988.10 shall not apply to a producer-handler.

§ 988.7 *Determination of uniform price*—(a) *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period by the applicable class price adjusted by the butterfat differential to handlers specified in § 988.5 (c) and adding together the resulting amounts: *Provided,* That if a handler, after subtracting receipts of other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which has been credited to producers as having been received from them, there shall be added any plus amount computed by multiplying the pounds in each class as subtracted pursuant to subparagraphs (1) (iv) and (2) of § 988.4 (f) by the applicable class price adjusted by the butterfat differentials to handlers specified in § 988.5 (c).

(b) *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight for producer milk, on the basis of 4.0 percent butterfat content, as follows:

(1) Combine into one total the value computed pursuant to paragraph (a) of this section for all handlers who made the reports prescribed by § 988.3 (a) for such delivery period, except those in default of payments required pursuant to § 988.8 (c) for the preceding delivery period;

(2) Subtract if the average butterfat content of producer milk represented by the values included under subparagraph (1) of this paragraph is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 988.8 (f), and multiply the result by the total hundredweight of such milk;

(3) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 988.8 (d);

(4) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against delinquencies in payments by handlers. This result shall be known as the "uniform price" per hundredweight for such delivery period for producer milk containing 4.0 percent butterfat, f. o. b. fluid milk plant.

(c) *Notification of handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The amount and value of his producer milk in each class and the total thereof;

(2) The uniform price computed pursuant to paragraph (b) of this section and the butterfat differentials computed pursuant to § 988.8 (f); and

(3) The amounts to be paid by such handler pursuant to §§ 988.8 (c), 988.9, and 988.10.

§ 988.8 *Payments to producers*—(a) *Time and method of payment.* (1) On or before the last day of each delivery period each handler shall make payment to each producer for milk received from him during the first 15 days of such delivery period at not less than 75 percent of the uniform price per hundredweight for the preceding delivery period: *Provided,* That for the first delivery period under this order such payment shall not be less than 75 percent of the price per hundredweight for 4.0 percent milk paid to producers by such handler for milk delivered during the last half of the immediately preceding month: *And provided further,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall pay such cooperative association on or before the 2nd day before the end of each delivery period an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this subparagraph.

(2) On or before the 15th day after the end of each delivery period each handler shall make payment to each producer for milk which was received from him during the delivery period at not less than the uniform price computed pursuant to § 988.7 (b), subject to the following adjustments: (i) The butterfat differential pursuant to paragraph (f) of this section, (ii) less payment made pursuant to sub-

paragraph (1) of this paragraph, (iii) less marketing service deductions pursuant to § 988.10, (iv) less deductions authorized in writing by the producer, and (v) any error in calculating payment to such individual producer for past delivery periods: *Provided*, That if such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator: *Provided further*, That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator: *And provided further*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall pay such cooperative association, on or before the 13th day after the end of each delivery period, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this subparagraph.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 12th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 988.7 (a) for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section.

(d) *Payments out of the producer-settlement fund.* On or before the 13th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, or a cooperative association, any amount by which the total value of his milk computed pursuant to § 988.7 (a) for such delivery period is less than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(e) *Adjustment of errors in payment.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by this section, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

(f) *Butterfat differential to producers.* If, during the delivery period, any handler has received, from any producer or cooperative association, milk having an average butterfat content other than 4.0 percent, such handler, in making payments prescribed in paragraph (a) (2) of this section, shall add to the uniform price per hundredweight paid to such producer or cooperative association for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or may deduct from the uniform price per hundredweight for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10, and then adjust to the nearest one-tenth of a cent.

(g) *Statement to producers.* In making payments required by paragraph (a) of this section each handler shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (f) of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction made pursuant to § 988.10, together with a description of the respective deductions; and

(6) The net amount of payment to the producer or cooperative association.

§ 988.9 *Expense of administration.* As his pro rata share of the expense of the administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (a) milk from producers (including such handler's own production), and (b) other source milk received at a fluid milk plant: *Provided*, That each cooperative association shall pay such pro rata expense on only that milk of producers for which it is a handler.

§ 988.10 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 988.8 (a) (2), shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers, excepting such handler's own farm production, during the delivery period, and shall pay such deductions to the market administrator not later than the 15th day after the end of the delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from such producers during the delivery period and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 988.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendments hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* (1) If, upon the suspension or termination of any or all of the provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market admin-

istrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate shall (i) continue in such capacity until discharged by the Secretary; (ii) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (iii) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 988.12 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 988.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

[F. R. Doc. 49-5141; Filed, June 27, 1949; 8:57 a. m.]

NOTICES

FEDERAL POWER COMMISSION

[Docket No. G-1221]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

JUNE 22, 1949.

Take notice that Northern Natural Gas Company (Applicant), a Delaware corporation, Aquila Court Building, Omaha, Nebraska, filed on June 10, 1949, an application for permission and approval pursuant to section 7 of the Natural Gas Act to transfer to Peoples Natural Gas Company approximately 5,240 feet of 6⅝ inch pipeline together with the property on which the old town border station for Fairbury, Nebraska, was located before being destroyed by fire.

Applicant proposes to discontinue the operation of the pipeline after the disposition thereof and to discontinue service to the customers along the line. However, Applicant states that these customers will continue to be served by Peoples Natural Gas Company which will use the line as a part of its distribution system and that Applicant will continue, without interruption to supply natural gas to its wholly owned subsidiary (Peoples Natural Gas Company) for distribution and sale to its customers including those who are now being served from the pipeline facilities proposed to be transferred.

The consideration to be received by Applicant for the facilities is $3,234.06.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure within 15 days from the date of publication hereof in the FEDERAL REGISTER. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-5116; Filed, June 27, 1949; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1699]

COLUMBIA GAS SYSTEM, INC., AND HOME GAS CO.

SUPPLEMENTAL ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 22d day of June 1949.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary, Home Gas Company ("Home"), having filed a joint application-declaration, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (b), 9, 10 and 12 thereof and Rule U-43 promulgated thereunder, with respect to the issue and sale by Home to Columbia of $3,000,000 principal amount of 3¼% notes, due in equal annual installments on August 15 of each of the years 1950 to 1974, inclusive, the proceeds from such notes to be used by Home for the purpose of financing its construction program; and

The Commission by orders dated July 23, 1948 and October 8, 1948 having granted and permitted said joint application-declaration to become effective with respect to an aggregate of $2,400,000 principal amount of said notes, and said joint application-declaration having been continued pending with respect to the balance of $600,000 principal amount of said notes until further action by the Public Service Commission of New York; and

The Public Service Commission of New York by order dated June 1, 1949 having authorized Home to issue and sell to Columbia the additional $600,000 principal amount of 3¼% notes, and Columbia and Home having requested that this Commission issue its order with respect to the balance of $600,000 principal amount of said notes; and

Said joint application-declaration having been duly filed and notice of said filing having been duly given in the manner prescribed in Rule U-23 promulgated pursuant to said act and the Commission not having received a request for hearing with respect to said joint application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said amended joint application-declaration that the requirements of the applicable provisions of the act and rules thereunder are satisfied and that no adverse findings are necessary and deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration be granted and permitted to become effective with respect to the balance of $600,000 principal amount of said 3¼% notes:

It is hereby ordered, Pursant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid amended joint application-declaration be, and the same hereby is, granted and permitted to become effective forthwith with respect to the issue and sale by Home to Columbia of $600,000 principal amount of 3¼% notes.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-5132; Filed, June 27, 1949; 8:58 a. m.]

[File No. 70-2120]

AMERICAN POWER & LIGHT CO. AND TEXAS UTILITIES CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 21st day of June A. D. 1949.

American Power & Light Company ("American"), a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, and American's registered holding company subsidiary, Texas Utilities Company ("Texas Utilities"), having filed a joint application-declaration, and an amendment thereto, pursuant to sections 6 (a), 7, 9 (a), 10 and 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-23 thereunder regarding the following proposed transactions:

Texas Utilities presently has outstanding 4,000,000 shares of common stock, without nominal or par value, all of which is owned by American. Texas Utilities proposes to issue and sell to American and American proposes to acquire 400,000 additional shares of the authorized common stock of Texas Utilities for a cash consideration of $7,000,000.

American and its electric utility subsidiary, Kansas Gas and Electric Company ("Kansas"), have on file with this Commission a joint declaration (File No. 70-2131) contemplating, among other things, the sale by American of not to exceed 450,000 shares of common stock of Kansas owned by American. The proceeds of said sale are to be used by American to make investments in the common stocks of certain of its subsidiaries, including $7,000,000 in the common stock of Texas Utilities. In the event American makes such investments prior to the sale of the Kansas common stock it is proposed that such investments be made from proceeds to be derived by American from temporary bank borrowings of not to exceed $13,000,000 which would be repaid in whole or in part from the proceeds to be derived by American from the sale of the Kansas common stock.

The funds necessary to enable American to purchase $7,000,000 of additional common stock of Texas Utilities as proposed herein will be raised as contemplated in the joint declaration (File No. 7-2131) filed by American and Kansas.

The application-declaration states that the funds to be obtained by Texas Utilities from the sale of its common stock will be used to liquidate certain short term bank borrowings, which borrowings were effected for the purpose of enabling Texas Utilities to make an additional equity investment of $4,000,000 in its subsidiary Texas Electric Service Company (Holding Company Act Release Nos. 8722 and 8975), and to make an additional equity investment of $3,000,000 in its subsidiary Texas Power & Light Company (Holding Company Act Release No. 9111).

The application-declaration states that "American and Texas Utilities request that the Commission enter its order herein authorizing and permitting American to make an investment of $7,000,000 in the equity of Texas Utilities and authorizing and permitting Texas Utilities to issue and sell to American 400,000 shares of its common stock, and that the Commission retain jurisdiction in the premises and, after it is determined whether such investment will be made directly out of proceeds to be derived by American from the sale of Kansas common stock or out of the proceeds of temporary bank borrowings to be made by American and prior to the time when American makes such investment and Texas Utilities issues and sells such stock, the Commission, on application of American and Texas Utilities, enter such supplemental order as shall be appropriate, containing recitals as to said investment by American and as to said issuance and sale of stock by Texas Utilities as are contemplated by the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereof."

Applicants-declarants request that the Commission's order herein be entered as promptly as may be practicable and that it become effective upon the issuance thereof.

The application-declaration having been filed on April 29, 1949, and an amendment thereto having been filed on May 12, 1949, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for a hearing with respect to the application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to the said application-declaration, that the requirements of the applicable provisions of the act and the rules thereunder are satisfied, the Commission being of the opinion that it is appropriate to grant and permit to become effective said application-declaration and deeming it appropriate to grant applicant-declarant's request that the order herein become effective forthwith upon the issuance thereof, and that jurisdiction should be reserved to enter such further order as may be appropriate hereafter pursuant to section 1808 (f) and Supplement R of the Internal Revenue Code;

It is ordered, Pursuant to said Rule U-23 and the applicable provisions of said act that said application-declaration be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions contained in Rule U-24.

It is further ordered, That jurisdiction be and hereby is reserved to enter such further order as may be appropriate, upon supplemental application herein by American and Texas Utilities, containing such recitals or granting such other relief as may be warranted under section 1808 (f) and Supplement R of the Internal Revenue Code.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-5130; Filed, June 27, 1949; 8:57 a. m.]

[File No. 812-602]

BANKERS SECURITIES CORP. AND N. E. CORNER WALNUT AND JUNIPER STREETS, INC.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 22d day of June A. D. 1949.

Notice is hereby given that Bankers Securities Corporation ("Bankers") located at No. 1315 Walnut Street, Philadelphia 7, Pennsylvania, an investment company registered under the Investment Company Act of 1940, has filed an application pursuant to section 17 (b) of the act for an order of the Commission exempting from the provisions of section 17 (a) of the act the proposed purchase by The Real Estate Trust Company of Philadelphia ("Real Estate Trust") of First Mortgage Bonds of N. E. Corner Walnut and Juniper Streets, Inc. ("Walnut and Juniper"), from Bankers pursuant to tenders to be made by Bankers in response to a general call for tenders to be made by Real Estate Trust under the sinking fund provisions of the indenture for such First Mortgage Bonds.

Bankers is a closed-end and non-diversified management investment company. Bankers owns at a cost of $25,745.83 First Mortgage Bonds of Walnut and Juniper in the principal amount of $72,250 (out of $197,000 principal amount outstanding) and 4,065 shares of capital stock or 59.7% of the 6,800 shares outstanding. Walnut and Juniper is, therefore, an affiliated person of Bankers.

Real Estate Trust is a bank organized under the laws of the Commonwealth of Pennsylvania and is the mortgagee and trustee under the indenture securing the First Mortgage Bonds of Walnut and Juniper. As of June 10, 1949, Bankers owned 6,783 shares of the 30,000 shares of capital stock of Real Estate Trust issued and outstanding or approximately 22.6% of the outstanding voting securities.

Bankers proposes to tender all of its $72,250 principal sum of bonds of Walnut and Juniper at a price not yet determined but within a range of 98 to par plus accrued interest. The sum of $97,000 will be available in connection with the proposed sinking fund operation.

The acceptance by the indenture trustee, Real Estate Trust, of any tenders of Walnut and Juniper Bonds from Bankers constitutes a purchase of such bonds by an affiliated person (Walnut and Juniper) from a registered investment company (Bankers) and is prohibited by section 17 (a) (2) of the act unless an exemption therefrom is granted by the Commission pursuant to section 17 (b) of the act.

Bankers has also included an application pursuant to section 6 (c) and section 17 (b) of the act for an order of the Commission exempting from the provisions of section 17 (a) of the act future purchases by Real Estate Trust of First Mortgage Bonds of Walnut and Juniper from Bankers pursuant to tenders which may be made by Bankers in response to general calls for tenders which may be made by Real Estate Trust under the sinking fund provisions of the indenture for First Mortgage Bonds.

All interested persons are referred to said application which is on file at the Washington, D. C. office of this Commission for a more detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application may be issued by the Commission at any time after July 14, 1949, unless prior thereto a hearing on the application is ordered by the Commission as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than July 12, 1949, at 5:30 p. m., e. d. s. t., in writing, submit to the Commission his views or any additional fact bearing upon the application or the desirability of a hearing thereon or request the Commission, in writing, that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature and interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-5131; Filed, June 27, 1949; 8:58 a. m.]

[File No. 54-173]

PHILADELPHIA CO. AND STANDARD GAS AND ELECTRIC CO.

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of June 1949.

Standard Gas and Electric Company ("Standard Gas"), a registered holding company and a subsidiary of Standard Power and Light Corporation, also a registered holding company, having filed a plan pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 for simplification of the capital structure of its subsidiary, Philadelphia Company, a registered holding company; and

The Commission on December 23, 1948, having issued its notice of filing of plan pursuant to section 11 (e) and notice of and order for hearing with respect to said plan directing that a hearing be held on February 15, 1949; and

On January 28, 1949, said hearing having been postponed, at the request of counsel for Standard Gas, until April 5, 1949; and

On April 12, 1949, said hearing having been adjourned by agreement of all interested persons until May 24, 1949; and

On May 17, 1949, said adjourned hearing having been postponed, at the request of counsel for Standard Gas, until June 27, 1949; and

Counsel for Standard Gas having, by letter dated June 14, 1949, requested that said adjourned hearing be further postponed until September 6, 1949 for the reason that Standard Gas intends to amend the aforesaid plan and requires additional time for consideration and preparation of such amendment; and

Counsel for Philadelphia Company 6% Cumulative Preferred Stockholders Protective Committee, by letter dated June 17, 1949, having requested that such adjourned hearing be postponed to a date not earlier than October 3, 1949; and

It appearing appropriate to the Commission that the adjourned hearing heretofore scheduled to be reconvened on June 27, 1949, should be postponed until October 10, 1949:

It is ordered, That the adjourned hearing in this matter heretofore scheduled to be reconvened on June 27, 1949 at 10:00 a. m., e. d. s. t., at the office of the Securities and Exchange Commission, 425 Second Street, Washington, D. C., be, and the same hereby is, postponed to October 10, 1949, at 10:00 a. m., e. s. t., at the same place previously designated. On such day the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held.

It is further ordered, That the Secretary of the Commission serve a copy of this order by registered mail on all persons who are participants of record in this proceeding.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-5133; Filed, June 27, 1949; 8:58 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

RUTH FEINER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Ruth Feiner, 114 Clifton Court, St. John's Wood, London N. W. 8, England, 2662; Property to the extent owned by claimant immediately prior to vesting thereof, described in Vesting Order No. 1758 (9 F. R. 13773, November 17, 1944) relating to the literary works entitled "Yesterday's Dreams", "Three Cups of Coffee", and "Young Woman of Europe" (listed in Exhibit A of said vesting order), including royalties pertaining thereto in the amount of $286.90.

Executed at Washington, D. C., on June 20, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-5111; Filed, June 24, 1949; 8:56 a. m.]

[Vesting Order 13409]

PAUL ALBERT OEHMICHEN

In re: Rights of Paul Albert Oehmichen under insurance contract. File No. F-28-24627-H-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paul Albert Oehmichen, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 202672, issued by the West Coast Life Insurance Company, San Francisco, California, to Paul Albert Oehmichen, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 14, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-5108; Filed, June 24, 1949; 8:56 a. m.]

[Vesting Order 13414]

MARIE STROBACH

In re: Rights of Marie Strobach under insurance contract. File No. D-28-12652-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Strobach, whose last known address is Germany, is a resident

of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 1,414,532, issued by The Penn Mutual Life Insurance Company, Philadelphia, Pennsylvania, to Carl H. Strobach, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 14, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-5109; Filed, June 24, 1949; 8:56 a. m.]

[Vesting Order 13400]

LYDIA ESSNER ET AL.

In re: Rights of Lydia Essner et al. under insurance contract. File No. D-28-10921-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lydia Essner, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Antonie Emilie Koehler, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the net proceeds due or to become due under a contract of insurance evidenced by Supplementary Contract Account 4264, issued by The Equitable Life Assurance Society of the United States, New York, New York, to Antonie Emilie Koehler, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown of Antonie Emilie Koehler, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 14, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-5105; Filed, June 24, 1949; 8:55 a. m.]

MARGIT ROCHMES

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Margit Rochmes, (nee Jawor), Vienna, Austria, Claim No. 13186; $27,759.37 in the Treasury of the United States. All right, title and interest of Margit Rochmes (nee Jawor) in and to the estate of Ladislao Jawor, deceased; 50 shares of Tintic Giant Mines Company (Utah) $1.00 par value capital stock registered in the name of Ladislao Jawor, Certificate No. A-644. Assigned to the Alien Property Custodian by Leroy W. Harvey, Executor of the last will and testament of Ladislao Jawor, deceased, and presently in the custody of the Office of Alien Property, 120 Broadway, New York City, New York.

The following securities in the custody of the Safekeeping Department of the Federal Reserve Bank of New York described as: 100 shares of Comet Coalition Mines Company (Nevada) $0.2[illegible] par value capital stock registered in the name of Alien Property Custodian, Certificate No. 3332; 25 shares of Consolidated Natural Gas Company (Delaware) $15.00 par value capital stock registered in the name of Alien Property Custodian, Certificate No. 199447; 12 shares of Hudson Bay Mining and Smelting Company, Limited (Canada) no par value capital stock registered in the name of Alien Property Custodian, Certificate No. 17284; 90/200 shares of Standard Oil Company (New Jersey) capital stock scrip certificate $25.00 par value, Certificate No. 166477; 12 shares of Standard Oil Company (New Jersey) $25.00 par value capital stock registered in the name of Alien Property Custodian, Certificate Nos. 560543 and 811111; 120/200 shares of Standard Oil Company (New Jersey) capital stock scrip certificate $25.00 par value, Certificate No. 189915; 258 shares of Standard Oil Company (New Jersey) $25.00 par value capital stock registered in the name of Alien Property Custodian, Certificate Nos. 719531, 719532 and 377875; 17 United States Savings Bonds ($25.00) Series E, registered in the name of Ladislao Jawor, 73 Clover Street, Elizabeth, N. J.; one $50.00 Brunner Turbine and Equipment Company Income Certificate (30 year sinking fund gold bond) 7½%, dated February 20, 1928, due February 20, 1958, with four coupons attached at $10.00 each, due February 20, 1928, Certificate No. 1134. Assigned to Alien Property Custodian; two $100.00 bonds of The City of New York, Corporate Stock for Transit Unification, Series R-31, issued June 1, 1940, due June 1, 1980 with coupon due December 1, 1949, Certificate Nos. 27902 and 42533.

Executed at Washington, D. C., on June 20, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-5112; Filed, June 24, 1949; 8:56 a. m.]